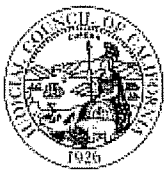

California Rules of Court (Revised January 1, 2012)

Standard 3.25. Examination of prospective jurors in civil cases

(a) In general

(1)—*Methods and scope of examination*

The examination of prospective jurors in a civil case may be oral, by written questionnaire, or by both methods, and should include all questions necessary to ensure the selection of a fair and impartial jury. The *Juror Questionnaire for Civil Cases* (form MC-001) may be used. During any supplemental examination conducted by counsel for the parties, the trial judge should permit liberal and probing examination calculated to discover possible bias or prejudice with regard to the circumstances of the particular case.

(2)—*Examination by counsel*

When counsel requests to be allowed to conduct a supplemental voir dire examination, the trial judge should permit counsel to conduct such examination without requiring prior submission of the questions to the judge unless a particular counsel has demonstrated unwillingness to avoid the type of examination proscribed in (f). 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: (1) any unique or complex elements, legal or factual, in the case, and (2) the 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. Questions regarding personal relationships of jurors should be relevant to the subject matter of the case.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1974, July 1, 1993, and January 1, 2004.)

(b) Pre-voir dire conference

Before the examination the trial judge should, outside the prospective jurors' hearing and with a court reporter present, confer with counsel, at which time specific questions or areas of inquiry may be proposed that the judge in his or her discretion may inquire of the jurors. Thereafter, the judge should advise counsel of the questions or areas to be inquired into during the examination and voir dire procedure. The judge should also obtain from counsel the names of the witnesses whom counsel then plan to call at trial and a brief outline of the nature of the case, including any alleged injuries or damages and, in an eminent domain action, the respective contentions of the parties concerning the value of the property taken and any alleged severance damages and special benefits.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1974.)

(c) Examination of jurors

Except as otherwise provided in (d), the trial judge's examination of prospective jurors should include the following areas of inquiry and any other matters affecting their qualifications to serve as jurors in the case:

(1)—*To the entire jury panel after it has been sworn and seated:*

I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All members of this jury panel, however, should pay close attention to my questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, the member will be asked to give his or her answers to these questions.

(2)—In the trial of this case the parties are entitled to have a fair, unbiased, and unprejudiced jury. If there is any reason why any of you might be biased or prejudiced in any way, you must disclose such reason when you are asked to do so. It is your duty to make this disclosure.

(3)—*In lengthy trials:*

This trial will likely take _____ days to complete, but it may take longer. Will any of you find it difficult or impossible to participate for this period of time?

(4)—The nature of this case is as follows: *(Describe briefly, including any alleged injuries or damages and, in an eminent domain action, the name of the condemning agency, a description of the property being acquired, and the particular public project or purpose of the condemnation.)*

(5)—The parties to this case and their respective attorneys are: *(Specify.)* Have you heard of or been acquainted with any of these parties or their attorneys?

(6)—During the trial of this case, the following witnesses may be called to testify on behalf of the parties. These witnesses are: *(Do not identify the party on whose behalf the witnesses might be called.)* Have any of you heard of or been otherwise acquainted with any of the witnesses just named? The parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.

(7)—Have any of you heard of, or have you any knowledge of, the facts or events in this case? Are any of you familiar with the places or property mentioned in this case?

(8)—Do any of you believe that a case of this nature should not be brought into court for determination by a jury?

(9)—Do any of you have any belief or feeling toward any of the parties, attorneys, or witnesses that might be regarded as a bias or prejudice for or against any of them? Do you have any interest, financial or otherwise, in the outcome of this case?

(10)—Have any of you served as a juror or witness involving any of these parties, attorneys, or witnesses?

(11)—Have any of you served as a juror in any other case? (If so, was it a civil or criminal case?) You must understand that there is a basic difference between a civil case and a criminal case. In a criminal case a defendant must be found guilty beyond a reasonable doubt; in a civil case such as this, you need only find that the evidence you accept as the basis of your decision is more convincing, and thus has the greater probability of truth, than the contrary evidence.

In the following questions I will be using the terms "family," "close friend," and "anyone with whom you have a significant personal relationship." The term "anyone with whom you have a significant personal relationship" means a domestic partner, life partner, former spouse, or anyone with whom you have an influential or intimate relationship that you would characterize as important.

(12)—*If a corporation or "company" is a party:*

(A)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever had any connection with, or any dealings with, the _____ corporation (or company)?

(B)—Are any of you or them related to any officer, director, or employee of this corporation (or company) to your knowledge?

(C)—Do you or they own any stock or other interest in this corporation (or company) to your knowledge?

(D)—Have you or they ever done business as a corporation (or company)?

(E)—The fact that a corporation (or company) is a party in this case must not affect your deliberations or your verdict. You may not discriminate between corporations (or companies) and natural individuals. Both are persons in the eyes of the law and both are entitled to have a fair and impartial trial based on the same legal standards. Do any of you have any belief or feeling for or against corporations (or companies) that

might prevent you from being a completely fair and impartial juror in this case?

(13)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever sued anyone, or presented a claim against anyone in connection with a matter similar to this case? (If so, did the matter terminate satisfactorily so far as you were concerned?)

(14)—Has anyone ever sued you, or presented a claim against you or, to your knowledge, against any member of your family, a close friend, or anyone with whom you have a significant personal relationship, in connection with a matter similar to this case? (If so, did the matter terminate satisfactorily so far as you were concerned?)

(15)—Are you or, to your knowledge, is any member of your family, a close friend, or anyone with whom you have a significant personal relationship presently involved in a lawsuit of any kind?

(16)—em] When appropriate:

It may appear that one or more of the parties, witnesses, or attorneys come from a particular national, racial, or religious group (or may have a lifestyle different than your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony or to their contentions?

(17)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship had any special training in: *(Describe briefly the fields of expertise involved in the case, such as law, medicine, nursing, or any other branch of the healing arts.)*

(18)—*In personal injury or wrongful death cases:*

(A)—You may be called on in this case to award damages for personal injury, pain, and suffering. Do any of you have any religious or other belief that pain and suffering are not real or any belief that would prevent you from awarding damages for pain and suffering if liability for them is established?

(B)—Are there any of you who would not employ a medical doctor?

(C)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever engaged in investigating or otherwise acting on claims for damages?

(D)—Have you or they, to your knowledge, ever been in an accident with the result that a claim for personal injuries or for substantial property damage was made by someone involved in that accident, whether or not a lawsuit was filed?

(E)—Have you or they, to your knowledge, ever been involved in an accident in which someone died or received serious personal injuries, whether or not a lawsuit was filed?

(F)—Are there any of you who do not drive an automobile? (If so, have you ever driven an automobile, and if you have, give your reason for not presently driving.) Does your spouse or anyone with whom you have a significant personal relationship drive an automobile? (If that person does not drive but did so in the past, why did that person stop driving?)

(G)—Plaintiff (or cross-complainant) _____ is claiming injuries. *(Describe briefly the general nature of the alleged injuries.)* Do you or, to your knowledge, does any member of your family, a close friend, or anyone with whom you have a significant personal relationship suffer from similar injuries? Have you or they, to your knowledge, suffered from similar injuries in the past? (If so, would that fact affect your point of view in this case to the extent that you might not be able to render a completely fair and impartial verdict?)

(19)—It is important that I have your assurance that you will, without reservation, follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(20)—Each of you should now state your:

(A)—Name;

(B)—Children's ages and the number of children, if any;

(C)—Occupation;

(D)—Occupational history; and

(E)—Present employer;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F)—Names;

(G)—Occupations;

(H)—Occupational histories; and

(I)—Present employers.

Please begin with juror number one.

(21)—Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case? If there is, it is your duty to disclose the reason at this time.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 1972; previously amended effective January 1, 1974, and January 1, 2004.)

(d) Examination of jurors in eminent domain cases

In eminent domain cases, the trial judge's examination of prospective jurors should include, in the areas of inquiry in (c)(1) through (c)(12), the following matters, and any other matters affecting their qualifications to serve as jurors in the case:

(1)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever had any connection with, or dealings with, the plaintiff agency? Are you or any of them related to any officer or employee of the plaintiff agency?

(2)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been involved in an eminent domain proceeding such as this or are you or they likely to become involved in such a proceeding in the future?

(3)—To your knowledge, do you have relatives, close friends, or anyone with whom you have a significant personal relationship who has been or will be affected by the proposed project or a similar public project? (If so, who and how affected?)

(4)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever sold property to a public agency having the power of eminent domain?

(5)—Are you or, to your knowledge, is any member of your family, a close friend, or anyone with whom you have a significant personal relationship presently involved in a lawsuit of any kind? (If so, does the lawsuit involve a public agency?)

(6)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been involved in a lawsuit involving a public agency?

(7)—*When appropriate:*

It may appear that one or more of the parties, witnesses, or attorneys come from a particular national, racial, or religious group (or may have a lifestyle different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony or contentions?

(8)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship had any special training in: *(Describe briefly the fields of expertise involved in the case, such as law, real estate, real estate appraising, engineering, surveying, geology, etc.)*

(9)—Have you, has your spouse, or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been engaged in any phase of the real estate business including:

(A)—Acting as a real estate agent, broker, or salesperson;

(B)—Acting as a real estate appraiser;

(C)—Dealing in trust deeds;

(D)—Buying or selling real property as a business;

(E)—Owning or managing income property; or

(F)—Engaging in the construction business?

(10)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever studied or engaged in: (State type of business, if any, conducted on subject property.)

(11)—Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been engaged in any work involving the acquisition of private property for public purposes? Or involving the zoning or planning of property?

(12)—Under the law of this state, all private property is held subject to the necessary right of eminent domain, which is the right of the state or its authorized agencies to take private property for public use whenever the public interest so requires. The right of eminent domain is exercised through proceedings commonly called a condemnation action. This is a condemnation action.

(13)—The Constitution of this state requires that a property owner be paid just compensation for the taking (or damaging) of his or her property for public use. It will be the duty of the jury ultimately selected in this case to determine the just compensation to be paid.

(14)—*If no claim of severance damages:*

In order to find the amount of just compensation in this case, the jury will be called on to determine the fair market value of the real property being acquired.

(15)—em] If severance damages are claimed:

In order to find the amount of just compensation in this case, the jury will be called on to determine the following:

(A)—The fair market value of the real property being acquired.

(B)—Severance damages, if any, to the defendant's remaining real property; that is, the depreciation in market value by reason of the severance of the part taken, or by the construction of the improvements in the manner proposed by the plaintiff, or both.

(C)—*When applicable:* Special benefits, if any, to the defendant's remaining real property. *(The trial judge on request may advise the jury on the concept of special benefits.)*

(16)—Just compensation is measured in terms of fair market value as of *(date)*, the date of value in this case.

(17)—I will give you more specific instructions on the issues and determinations to be made in this case at the conclusion of all the evidence. However, I will now advise you of the definition of fair market value: *(See CACI 3501.)*

(18)—*Private ownership of property:*

(A)—Do you have any objection to the concept of private ownership of property?

(B)—Do you have any objection to the right of the owner of private property to develop or use that property in whatever lawful way its owner sees fit?

(19)—Do you have any objection to the plaintiff acquiring private property for a public use as long as just compensation is paid for the property?

(20)—Do you have any objection to the defendant(s) seeking just compensation in these proceedings in the form of the fair market value of the subject property (and the damages that the defendant(s) contend will be caused to the remaining property)?

(21)—Do you have any objection to the particular public project involved in this proceeding, previously referred to as the *(name of project)*?

(22)—Are you or, to your knowledge, is any member of your family, a close friend, or anyone with whom you have a significant personal relationship a member of any organization that is opposed to such public projects?

(23)—Do you have any objection to the concept that just compensation is measured by fair market value as I have defined that term for you earlier?

(24)—Do you have any feeling that, because the plaintiff needs the property for public purposes, it should pay anything other than its fair market value?

(25)—In these cases, the evidence of value is introduced for the most part by what the courts sometimes refer to as expert testimony. This expert testimony frequently is introduced through appraisers or real estate brokers. Do you have any prejudice against real estate brokers or appraisers, or that type of testimony?

(26)—In a condemnation case the property owner produces all of his or her evidence of value first, then the government calls its witnesses. Having this in mind, will you keep your mind open throughout all the case and not determine the matter in your mind until all of the evidence is in?

(27)—It is important that I have your assurance that you will, without reservation, follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(28)—Each of you should now state your:

(A)—Name;

(B)—Children's ages and number of children, if any;

(C)—Occupation;

(D)—Occupational history; and

(E)—Present employer;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F)—Names;

(G)—Occupations;

(H)—Occupational histories; and

(I)—Present employers.

Please begin with juror number one.

(29)—Each of you should now state whether you, your spouse, or anyone with whom you have a significant personal relationship owns or has an interest in any real property and, if so, whether its value or use is affected by the public project involved in this case.

We will again start with juror number one.

(30)—Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case? If there is, it is your duty to disclose the reason at this time.

(Subd (d) amended effective January 1, 2007; adopted effective January 1, 1974; previously amended effective January 1, 1989, and January 1, 2004.)

(e) Subsequent conference and examination

On completion of the initial examination and on request of counsel for any party that the trial judge put additional questions to the jurors, the judge should, outside the jurors' hearing and with a court reporter present, confer with counsel, at which time additional questions or areas of inquiry may be proposed that the judge may inquire of the jurors.

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 1974.)

(f) Improper questions

When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys. Nor should the trial judge allow counsel to question the jurors concerning the pleadings, the applicable law, the meaning of particular words and phrases, or the comfort of the jurors, except in unusual circumstances, where, in the trial judge's sound discretion, such questions become necessary to insure the selection of a fair and impartial jury.

(Subd (f) amended effective January 1, 2007; previously amended effective January 1, 1974.)

Standard 3.25 amended and renumbered effective January 1, 2007; adopted as Sec. 8 effective January 1, 1972; previously amended effective January 1, 1974, January 1, 1989, July 1, 1993, and January 1, 2004.