

New Part Three Rule Addressing Voir Dire in Civil Cases

May 2011

Draft Rule Published for Comment

Set forth below is a draft rule approved by the Advisory Committee on Rules of Court, a committee of the Judicial Council of Virginia. It has not been submitted to, considered by, or approved by the Judicial Council of Virginia or the Supreme Court of Virginia. The Advisory Committee on Rules of Court seeks comment on this draft rule.

Background: The Boyd-Graves Conference of the Virginia Bar Association has submitted a proposal to add a new rule to Part Three of the Rules. The proposed rule seeks to clarify the procedure governing voir dire in civil cases and mirrors the provisions of Rule 3A:14 governing voir dire in criminal cases. The Rule would preserve present practice for voir questioning by the court and by counsel for the parties, and simply spells out a roster of topics to be addressed in the initial questioning of prospective jurors in civil cases.

Comments on this draft rule should be sent by August 26, 2011 to:

Advisory Committee on Rules of Court
c/o Steven Dalle Mura
Office of the Executive Secretary
Supreme Court of Virginia
100 North Ninth St.
Richmond, VA 23219

OR via email with the subject line: "comment on draft Rule 3:___ " to:

proposedrules@courts.state.va.us

PROPOSED RULE

Rule 3:___. **Trial Jurors.**

(a) *Examination.* After the prospective jurors are sworn on the voir dire, the court shall question them individually or collectively to determine whether anyone:

- (1) Is related by blood or marriage to the accused or to the Plaintiff or Defendant;
- (2) Is an officer, director, agent or employee of the Plaintiff or Defendant;
- (3) Has any interest in the trial or the outcome of the case;
- (4) Has acquired any information about the case or the parties from the news media or other sources and, if so, whether such information would affect his impartiality in the case;
- (5) Has expressed or formed any opinion about the case;
- (6) Has a bias or prejudice against the Plaintiff or Defendant; or
- (7) Has any reason to believe he might not give a fair and impartial trial to the Plaintiff and Defendant based solely on the law and the evidence.

Thereafter, the court, and counsel as of right, may examine on oath any prospective juror and ask any question relevant to his qualifications as an impartial juror. A party objecting to a juror may introduce competent evidence in support of the objection.

(b) *Challenge for Cause.* The court, on its own motion or following a challenge for cause, may excuse a prospective juror if it appears he is not qualified, and another shall be drawn or called and placed in his stead for the trial of that case.
