

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

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MEMORANDUM CONCERNING ATTORNEY VOIR DIRE IN CIVIL CASES

The practice of permitting attorneys to conduct voir dire in civil matters has undergone a significant change over the past 30 years. In the past, the practice was to permit attorneys to conduct the complete voir dire. However, clear restrictions were placed upon the subject matters to be addressed in such voir dire. Specifically, attorneys were not permitted to educate jurors regarding the nature of their case or use voir dire as a forum to argue their relative positions. In the 1970s, Judge Coffrin would traditionally ask a number of questions of the jury panel and permit attorneys to conduct additional voir dire. By the 1980s, consistent with the practices of most of the other federal jurisdictions, voir dire became the exclusive responsibility of the trial judge. Attorneys were generally permitted only to submit proposed questions to the Court.

The Court is sensitive to the need for trials to be conducted expeditiously. However, it is the Court's experience that abuses of voir dire by attorneys are rare in Vermont and can be curbed quickly by admonishment from the trial judge. Attorneys conducting voir dire may be better able to respond to

particular answers of jurors that may weigh on the issues of bias in individual cases. Provided that procedures are in place to ensure that voir dire can be conducted relatively quickly, attorney conducted voir dire should not put an undue strain on judicial resources.

Upon request, the Court will allow attorney voir dire in civil cases subject to the following conditions:

1. The Court will conduct a preliminary voir dire of the jury panel covering all of the relevant areas of concern of the parties. The parties shall submit lists of proposed questions for the Court's review.

2. Each attorney shall be given 10 minutes for follow-up voir dire. The only restrictions imposed by the Court regarding those questions are as follows:

- a. Attorneys are not permitted to ask questions which have the exclusive purpose of educating the jury as to their position.

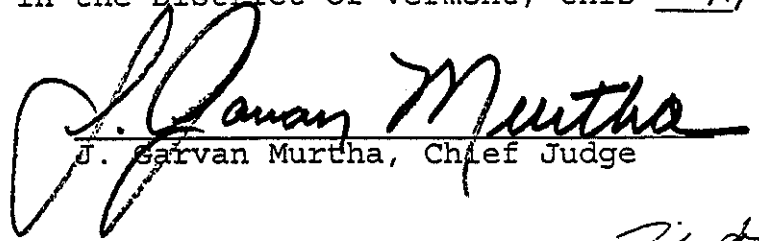
- b. Attorneys shall not engage in argument to the jury during voir dire regarding their view of the case.

- c. Attorneys shall not require jurors to commit to particular positions which are consistent with the attorneys' view of the case.

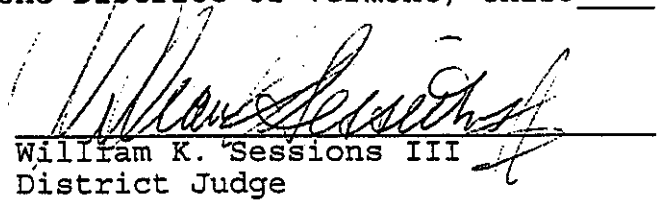
- d. Attorneys shall refrain from arguing points of law during voir dire.

- e. Attorneys shall not repeat questions already asked the jury.

Dated at Brattleboro, in the District of Vermont, this 20TH
day of December, 1995.


J. Garvan Murtha, Chief Judge

Dated at Burlington, in the District of Vermont, this 3rd
January day of December, 1995.


William K. Sessions III
District Judge