



Attorney-Conducted Voir Dire for the Defense Lawyer

Skills, Strategies, and Ethics Advice from the Experts



- ✓ Everything You Need to Know About Conducting Effective Voir Dire—from How to Plan Your Case to the Most Useful Strategic Moves
- ✓ Get Defense Tips from Experts on:
 - Dos and Don'ts with the Venire
 - Neutralizing the Plaintiffs' Voir Dire
 - Maintaining an Ethical and Level Playing Field
 - Voir Dire Motion Practice

January 13, 2015
Seaport Boston Hotel
Boston, Massachusetts

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resources
to build
your practice ■

Massachusetts will now allow attorney-conducted voir dire in state court jury trials. What is new for the Bay State has existed in other jurisdictions across the country. Though attorneys face vanishing civil trials, when they do get before a jury, they need to be equipped for every facet of a trial, including this important jury selection skill. DRI and the MassDLA have put together a one day program that both introduces the concept of attorney-conducted voir dire and provides instruction and insight from local and national experts.



R. Matthew Cairns
Program Chair

Attendees will go beyond the theoretical and walk away with:

- Insight from a trial court judge that will be presiding over attorney-directed voir dire
- Strategies for planning your voir dire from a jury consultant
- Ideas for what pretrial filings to make and when to do so to help protect your client from abusive voir dire
- A plan for how to begin your advocacy and addressing your opponent's claims in voir dire
- A view into the minds of two of Boston's best trial attorneys as they present a defense and plaintiff's perspective on conducting effective attorney directed voir dire
- Guidance on how to spot and avoid ethical issues

PROGRAM SCHEDULE

TUESDAY, JANUARY 13, 2015

7:30 a.m. **Registration**7:30 a.m. **Continental Breakfast**8:20 a.m. **Welcome and Introduction****R. Matthew Cairns**, *Gallagher Callahan & Gartrell LPC*, Concord, New Hampshire8:30 a.m. **View from the Bench**

In February, M.G.L. c. 234, sec. 28 takes effect and Massachusetts joins 39 other states that allow some form of attorney-conducted voir dire. Judge Maynard Kirpalani is a member of the Superior Court Implementation Subcommittee of the Supreme Judicial Court Committee on Juror Voir Dire. He will discuss the new voir dire law, provide us with his insights as a member of the judicial implementation team for the new law, and go over Superior Court rules, procedures, standing orders, and other guidelines for lawyers conducting voir dire in Massachusetts.

The Honorable Maynard M. Kirpalani, *Associate Justice of the Massachusetts Superior Court*, Boston, Massachusetts9:00 a.m. **Fundamentals of Voir Dire**

Voir dire presents an important and challenging task for defense lawyers as they try to ferret out jurors who may be biased against their clients. If done correctly, it can be a game changer, and this session will explore the basics of voir dire and the goals of voir dire, and will provide practical advice on how to make the most of your first chance to interact with your jury.

Randal H. Sellers, *Starnes Davis & Florie LLP*, Birmingham, AL9:45 a.m. **Refreshment Break**10:00 a.m. **Strategic Objectives and How to Plan Your Case**

Voir dire is an art form. Two of Boston's best lawyers will give you a plaintiff's and defendant's perspective on how and why they conduct voir dire the way they do, and they will then do a mock voir dire of a panel of "jurors"

based on an actual product liability fact pattern. An opportunity not to be missed.

James M. Campbell, *Campbell Campbell Edwards & Conroy PC*, Boston, Massachusetts**Joan A. Lukey**, *Choate Hall & Stewart LLP*, Boston, Massachusetts11:15 a.m. **What and When to File Motions Related to Voir Dire**

Pretrial motions are essential to setting the table for effective voir dire. In this session you will learn what motions and other filings you need to make to set up your voir dire and also to address and limit anticipated voir dire by the plaintiff.

Craig A. Thompson, *Venable LLP*, Baltimore, Maryland12:00 p.m. **Lunch (on your own)**1:15 p.m. **Using a Jury Consultant to Help You Plan Your Voir Dire and Pick the Right Jury**

Voir dire is only effective if you know what type of juror you want and don't want. A nationally recognized jury consultant will discuss how to go about determining who are the best jurors and worst jurors for your case, and how to structure your voir dire to achieve your objectives, regardless of the size of your case.

Samantha D. Holmes, Ph.D., *Edge Litigation Consulting LLC*, Memphis, Tennessee2:00 p.m. **Using Technology to Prepare for and Conduct Effective Voir Dire**

From researching your jury, to planning your questions, to tracking responses, technology can make your voir dire more effective and help you pick a better jury. In this session, current technology options and strategies will be revealed and discussed to maximize your voir dire results.

R. Matthew Cairns, *Gallagher Callahan & Gartrell LPC*, Concord, New Hampshire2:30 p.m. **Refreshment Break**2:45 p.m. **Using Voir Dire to Neutralize Plaintiff's Case**

Voir dire is your first opportunity to persuade the jury as to the merits of your case. In this

session we will discuss how to neutralize bad evidence, put opposing counsel on the defensive, and move the jury to see the evidence from your perspective.

Marc E. Williams, *Nelson Mullins Riley & Scarborough LLP*, Huntington, West Virginia

3:30 p.m. **Selected Ethical Issues in Jury Selection**

Attorney-conducted voir dire can give rise to issues in professional conduct and the code of ethics. In this session, we will identify selected ethical considerations, issue spot, and discuss

ethics decisions from other states to provide guidance on how to avoid ethical issues in a high tech digital age.

Jeffrey D. Woolf, *Massachusetts Board of Bar Overseers*, Boston, Massachusetts

4:30 p.m. **Adjourn**

4:30 p.m. **Networking Reception**

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FACULTY

R. Matthew Cairns earned an AB in History and International Relations from Brown University in 1983. In 1986, he graduated cum laude from Case Western University School of Law where he was a law review editor. Mr. Cairns has been a member of the New Hampshire Bar since 1986 and has practiced with Gallagher Callahan & Gartrell LPC in Concord since 2008. Every day, he defends the interests of individuals, businesses, banks, municipalities, and insurers in civil and administrative litigation. His practice includes litigation at every level of the New Hampshire court system and in the United States District Court and the First Circuit Court of Appeals. Mr. Cairns is a member of the Vermont Bar as well and regularly practices in the Green Mountain State. He focuses his practice on product liability, commercial litigation, professional liability, construction, and employment cases. Mr. Cairns was president of DRI in 2010–2011. He previously sat on the board of directors for the National Foundation for Judicial Excellence and Lawyers for Civil Justice, and was on the board of visitors for the National Judicial College. Previous DRI positions include director for the Northeast Region, New Hampshire state representative, chair of the Law Practice Management Committee, and chair of the National Membership Committee. He is also a member of ABOTA, IADC, FDCC, and the Tri-State Defense Lawyers Association.

James M. Campbell, President of Campbell Campbell Edwards & Conroy PC in Boston, focuses his practice on civil litigation and the defense of catastrophic product liability, toxic tort, medical device, pharmaceutical and negligence matters throughout the United States. He is responsible for supervising and coordinating litigation for the firm throughout the country and has tried over 100 cases in 15 different states. Mr. Campbell is a fellow of the American

College of Trial Lawyers and serves as the vice chair of the Jury Committee. He is a past president of the International Association of Defense Counsel, a past president of the Massachusetts Defense Lawyers Association, and served two terms on the DRI Board of Directors.

Samantha D. Holmes, Ph.D., is a principal consultant for Edge Litigation Consulting LLC in Memphis, Tennessee. Dr. Holmes has consulted on hundreds of civil cases nationwide, helping attorneys develop persuasive strategies for trial and mediation. She has studied the effects of juror and attorney demographics and attitudes on verdicts, giving litigators insights into the psychological and courtroom factors that influence jurors' decision-making. Dr. Holmes has written several articles on juror persuasion and lectured at numerous professional conferences nationwide.

Judge Maynard M. Kirpalani, Associate Justice of the Massachusetts Superior Court, was appointed to the bench by Governor Deval Patrick in 2010. He began his career in 1978 at the firm of Parker Coulter Daley & White where he was a partner until 1995. He later served as a partner at Peabody & Arnold, and Wilson Elser Moskowitz Edelman & Dicker. Before his appointment to the bench, Judge Kirpalani spent more than 30 years in the defense of complex tort litigation including, products liability, drug and medical device, aviation, toxic torts, environmental, employment practices, and professional liability, insurance coverage, and "bad faith" matters. He also served as lead national defense counsel in numerous cases including multi-jurisdictional pharmaceutical and medical device litigation. Judge Kirpalani is a graduate of Washington College (magna cum laude, 1975) and University of Virginia School of Law (1978). He currently serves on the Massachusetts Superior Court

Implementation Subcommittee of the Supreme Judicial Court Committee on Juror Voir Dire.

Joan A. Lukey is a partner of Choate Hall & Stewart in Boston, where she serves as chair of the firm's Complex Trial and Appellate Litigation Group. For more than 30 years, Ms. Lukey has tried complex business litigation, First Amendment, and other cases in state and federal court in Massachusetts and New Hampshire and nationwide. She has tried approximately 90 jury trials, and a myriad of bench trials and arbitrations in all aspect of business disputes. In addition, she is an accomplished appellate lawyer, having argued approximately 60 federal and state appeals. Since 1983, Ms. Lukey has been selected by her peers for each edition of The Best Lawyers in America in the areas of business, bet-the-company, commercial, personal injury, employment and First Amendment litigation. She has also been routinely recognized for the last several years in Chambers USA and Chambers Global as a Band One Litigator. Ms. Lukey is a past President of the prestigious American College of Trial Lawyers, the first woman ever to hold this position. She has served twice as a Massachusetts Special Assistant Attorney General and has written extensively on issues of Gubernatorial and Presidential Executive Privilege.

Randal H. Sellers is a partner with Starnes Davis and Florie LLP in Birmingham, Alabama. His civil litigation practice includes health care, professional liability, securities, and intellectual property matters. He has tried over 180 complex civil cases to jury verdict. Mr. Sellers has been listed in Best Lawyers in America as a Top Litigator (2008–2014); and in Benchmark Litigation as a Litigation Star for Alabama (2008–2013).

Craig A. Thompson is a partner at Venable LLP in Baltimore, where he represents clients in the areas of commercial litigation, product liability, premises liability and personal injury. Mr. Thompson serves as an adjunct professor at the University of Maryland, College Park, and is an elected member of the university's board of trustees. Mr. Thompson writes a monthly column for the *Daily Record*. He is also the host of a weekly two-way talk radio show and the author of a series of children's books on African-American history.

Marc E. Williams is the managing partner of the West Virginia office of Nelson Mullins Riley & Scarborough LLP. His practice focuses on class actions, mass torts and commercial litigation. He has had primary responsibility for over 100 trials and appeals during his career. He is listed by Best Lawyers in eleven categories and has received Chambers USA's highest designation for Commercial Litigation. In 2008–2009 he served as president of DRI. He currently serves as president of the National Foundation for Judicial Excellence and as immediate past president of Lawyers for Civil Justice.

Jeffrey D. Woolf is an assistant general counsel at the Board of Bar Overseers in Boston. Previously, he was for several years an assistant bar counsel at the Office of the Bar Counsel. Before that, Mr. Woolf was in private practice, where he concentrated in personal injury, products liability, medical malpractice, toxic torts, and corporate litigation. He is a member of the Massachusetts and the District of Columbia bars and is active in numerous bar associations. Mr. Woolf has served on the board of the Massachusetts Trial Lawyers Educational Foundation and was a member of the auto insurance committee of the Massachusetts Academy of Trial Attorneys. He is currently an adjunct professor at Boston University School of Law and was previously an adjunct professor at New England School of Law and Northeastern University. He has taught numerous continuing legal education programs in legal ethics, civil litigation, discovery, and related topics and authored numerous articles, seminar materials, and book chapters. Mr. Woolf has also served as a mediator for the federal court mediation program, a conciliator for the Boston Bar Association's volunteer project, and a hearing officer for the Board of Bar Overseers. From 1995 through 2000, he was a special assistant attorney general, representing the Commonwealth of Massachusetts in tobacco litigation (*Commonwealth v. Phillip Morris*). He received his undergraduate degree from Yale University, where he was on the Dean's List, and received his M.A. and law degree from Boston University.

GENERAL INFORMATION

In-House Counsel

In-house counsel are eligible for free registration to DRI seminars. In-house counsel are defined as licensed attorneys, who are employed exclusively by a corporation or other private sector organization for the purpose of providing legal representation and counsel only to that corporation, its affiliates and subsidiaries. In order to qualify for free registration, the individual must also be a DRI member and a member of DRI's Corporate Counsel Committee. Offer excludes the DRI Annual Meeting.

Claims Executives

Any member of DRI employed as a claims professional by a corporation or insurance company, who spends a substantial portion of his or her professional time hiring or supervising outside counsel in the representation of business, insurance companies or their insureds, associations or governmental entities in civil litigation, will be entitled to free attendance at any DRI program. **Limited to one seminar per calendar year.** Offer excludes DRI Annual Meeting.

CLE/Claims Adjusters Accreditation
CLE accreditation has been requested in NY, NJ, VT, ME, CT, and NH for up to **5** hours including **1** hour of ethics credit. Certificates of attendance will be provided to each attendee.

Attendees are responsible for obtaining CLE credits from their respective states. Credit availability and requirements vary from state to state; please check the DRI website at dri.org for the latest information for your state.

Registration and Refund Policy

The registration fee for this program is \$295 for members and nonmembers. Registration fees are fully refundable for cancellations received on or before **December 23, 2014**. Cancellations received after **December 23** and on or before **December 30, 2014**, will receive a refund, less a \$50 processing fee. Cancellations made after **December 30** will not receive a refund, but the course materials on CD-ROM and a \$50 certificate good for any DRI seminar within the next 12 months will be issued. All cancellations and requests for refunds must be made in writing, by fax (312.795.0747) or by email (seminars@dri.org) to DRI's Accounting Department. Processing of refunds will occur within four weeks after the date of the seminar. All refunds will be processed in the same method that the payment was received. Substitutions may be made at any time without charge and must be submitted in writing.

- The taping or recording of DRI seminars is prohibited without the written permission of DRI.
- Speakers and times may be subject to last-minute changes.
- DRI policy provides there will be no group functions sponsored by others in connection with its seminars.

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Attorney-Conducted Voir Dire for the Defense Lawyer

January 13, 2015

Seaport Boston Hotel | Boston, Massachusetts

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Are you a first-time attendee at this DRI seminar? Yes No

How many attorneys
are in your firm? _____

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REGISTRATION FEE

Registration fee includes seminar attendance, continental breakfast, networking events and course materials. DRI will email a link to download the course materials to all registrants two weeks in advance of the seminar. The CD will be included in the registration packet on-site. You can order additional copies by checking the appropriate box below or going online at dri.org.

- Member/Nonmember \$295
 Law Student Member FREE
 In-House Counsel Member* FREE
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ADDITIONAL COURSE MATERIALS

Member \$75 Nonmember \$95 (Illinois residents, please add 9.25% sales tax. Shipping charges for U.S. and Canada only: \$6.50)

PAYMENT METHOD

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