Voir Dire: Designing Questions Which Discover Negative Juror Bias and Prove a Winning Challenge for Cause

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The So-Called Fair Juror Who Can "Set-Aside" Their Beliefs and Keep an "Open Mind."

The Illinois Supreme Court believes that whether a potential juror will be fair and impartial in a trial depends on his or her "state of mind." *People v. Cole*, 54 Ill. 2d 401, 413 (1973). Specifically, a prospective juror who states under oath that he or she can *set aside* their personal beliefs, opinions, experiences and relationships and keep an "open mind" while listening to the evidence and following the law is qualified to be a juror. *Id.* (emphasis added) Thus, the juror's impartiality is a state of mind. *Id.* An attorney's mere suspicion of bias is not evidence of bias. In *Cole* the Court explicitly overruled the line of cases for excusing a juror based on mere suspicion. *Id.* To prove grounds for cause to remove a juror, the attorney must show through actual evidence, i.e. juror testimony, that the juror possesses a disqualifying state of mind. *Id.* For example, a juror who states that he holds a fixed or decided opinion that a defendant is either guilty or innocent proves that he does not possess an open state of mind. *Id.*

In People v. Cole, 54 Ill. 2d 401 (1973), the Illinois Supreme Court established the current, prevailing "open minded" standard for determining whether a juror was qualified to serve on a jury. To study the *Cole* decision is very illuminating as to what constitutes "cause" to remove a juror. In *Cole,* a criminal murder trial, after the defense had exhausted its peremptory challenges, a new prospective juror stepped into the jury box with the following background:

- He knew the prosecuting State's Attorney and the assistant State's Attorney. *Id.*, at 411
- He had worked for the State's Attorney in his election campaign. *Id.*, 415
- He was a witness for the State in a case in which he was privately employed. *Id.*, 415
- He had spoken to one of the deceased victims a year before alleged crime. Id.
- A witness for the State had a sister married to a prospective juror's son, but had not spoken to the witness for three to four years. *Id.*, 412
- He was a friend of the Sheriff and had spoken to him about things in the news about the alleged murder. Id, 412. He had recently served as the Treasurer for the Sheriff's campaign fund. *Id.*
- A physician testifying as a material witness for the State had been the juror's past neighbor and personal physician. *Id.* 412

After the trial court's *voir dire* examination, the defense challenged this prospective juror for cause which the trial judge denied. *Id*., at 412 Affirming the denial for cause, the *Cole* Court held that the trial judge's determination that a prospective juror possesses the state of mind which will allow him to be fair and impartial during the trial is sufficient to deny a challenge for cause. *Id*., at 414.

Under *Cole*, the trial judge can rely on the statements of the juror as evidence of his state of mind. Id. The prospective juror stated:

- He had no opinion as to the guilt of the defendant.
- He would give the testimony of witnesses with whom he was not acquainted the same weight as those witnesses with whom he was acquainted
- He "believed he could" disregard anything that he had heard outside the courtroom and base his verdict solely on the evidence
- "I'm human like everybody else…, " but he would not let associations with the State's Attorneys' office interfere with his duties if selected as a juror
- He would render a fair and impartial verdict if selected. *Id.,* at 412

The *Cole* Court overruled any prior Illinois case law holding that "the mere suspicion of bias" was sufficient cause to remove a jury. *Id.* Absent some evidence of lack of credibility in the juror's statements, the trial judge's determination that the prospective juror statements were truthful shall suffice to defeat a challenge for cause. There is no longer any presumption of bias. *Id.*

Following *Cole*, in both civil and criminal cases, the Illinois Appellate courts have found routinely that a trial judge may give great weight to a prospective juror's sworn statement that he can set aside his personal beliefs or opinions that may indicate bias and render a verdict based on the evidence and the law. *People v. Williams*, 161 Ill. 2d 1, 54, 641 N.E. 2d 296 (1994); *Lambie v. Schneider*, 305 Ill. App. 3d 421, 430 (1999). Without more evidence from the juror, the trial judge's determination that a prospective juror possesses the state of mind which will enable him to be fair and impartial rests in his sound discretion, and his determination should not be set aside unless it is against the manifest weight of the evidence. *Vrzal v. Contract Transportation Systems Co*, 312 Ill. App. 3d 755 (1st D. 2000); *Taylor v. R.D. Morgan & Associates, Ltd.*, 205 Ill. App. 3d 682 (5th D. 1990).

At common law, the Illinois courts have found very few fact scenarios where prospective jurors are *per-se* biased and should be removed for cause. *See, e.g. Marcin v. Kipfer*, 117 Ill. App. 3d 1065, 1067 (4th D. 1983) (a prospective juror's current physician-patient relationship with the defendant created *per se* bias) Otherwise, the Appellate courts have held that the trial judge is in a superior position to observe juror's demeanor, body language, verbal answers and assess the juror's credibility when stating that he will set aside his personal beliefs or opinions and listen to the evidence and follow the law put to him. *Williams*, at 52-54; *Taylor, supra.*

I. The Objectionable Juror Excused for Cause

The following are cases where a juror was successfully challenged for cause.

Juror Who Has Bias or Prejudice Toward a Party is Cause to Remove

It has been long established that a prospective juror's bias or prejudice, expressed or implied, toward either party, constitutes grounds for challenge for cause, and warrants disqualification, whenever such bias would control a juror's judgment or interfere with his duty to act impartially. *People v. Hobbs*, 35 Ill. 2d 263 (1966).

Juror Who Testifies "Cannot Be Objective. No Way" Toward a Party is Biased.

A prospective juror who either has a definite opinion on the merits of the case, or a determinative fact in the case is biased and subject to removal for cause. *Vrzal v. Contract Transportation Systems Co*, 312 Ill. App. 3d 755 (1st D. 2000) *citing People v. Williams*, (1996) 173 Ill. 2d 48, 66-67.

Juror Who Favors a Party is Biased and Should Be Removed

In a civil case for damages under a statute, a prospective juror who testifies that if the evidence were evenly balanced, he would be "inclined" to find for the plaintiff or "lean against the defendant" is incompetent and biased. *Chicago & Alton Railroad Co, v. Adler*, 56 Ill. 344 (1870). To deny a challenge for cause regarding a juror who will not require a preponderance of evidence is error. *Id.* Further, where a juror is inclined toward a party, the trial court's instructions will not correct or cure the bias. *Id.*

Juror Who Expresses Doubt or Reluctance to be Impartial is Cause to Remove

In *People v. Stone*, 61 Ill. App. 3d 654, 667 (5th D. 1978). Although two prospective jurors represented to the trial judge that they would listen to the evidence and could be fair, the trial judge was reversed for denial of the defendant's cause motions because both jurors expressed "doubt" and "reluctance to assume an impartial position" as required of them as jurors.

In *People v. Pendelton*, 279 Ill. App. 3d 669 (1st D. 1996), a prospective juror who expressed doubt that she could be fair in a case involving a gun, because she had been a prior victim of a crime involving a gun should have been excused, despite the best attempts at rehabilitation. (Note: the alleged crime had significant similarity to the juror's personal experience.)

Juror's Inconsistent Statements Towards Following the Law is Cause to Remove

In *People v. Pendelton*, 279 Ill. App. 3d 669 (1st D. 1996), court held that a prospective juror who gave inconsistent statements during *voir dire* should have been excused for cause. Even though the juror said she would follow law, despite a personal belief that defendant was guilty if it had come as far as trial, the *Pendelton* court found that the totality of her examination indicated an inability to hold the State to its burden of proof beyond a reasonable doubt.

In *People v. Shaw*, 186 Ill. 2d 301, 713 N.E. 2d 1161 (1998), the trial judge's removal of prospective juror for cause based on "contradictory" statements about death penalty is not error. Judge has discretion which will not be doubted. *Id.*

In *People v. Delgado*, 231 Ill. App. 3d 117 (1992), the prospective juror had a "close friend" who died from a drug overdose and the defendant on trial was charged in a controlled substance case. When asked if he could be fair and impartial, each time the juror equivocated. The *Delgado* court held was error not to excuse the juror for cause.

Juror's Contradictory Body Language (shaking head "no") When Verbally Answering That He Could Set Aside Personal Beliefs Established Challenge for Cause

In *People v. Harris*, 225 Ill. 2d 1, 33, 866 N.E. 2d 162, 181 (2007), despite the prospective juror's statements that he could set aside his personal beliefs and follow the law and listen to the evidence, the juror's body language and demeanor exhibited disagreement with his verbal answers, i.e. he repeatedly shook his head meaning no. The *Harris* court held that the juror's responses were contradictory and ambiguous; therefore, plaintiff's motion for cause was properly granted because ambiguity existed as to whether he was impartial or could fulfill his duties as a juror.

Juror's "Unsure" Equivocal Commitment that She Could Set Aside Personal Beliefs and Follow the Law and the Evidence Is Cause for Removal.

In *Thompson v. Altheimer & Gray*, 248 F.3d 621, 627 (7th Cir., 2001), jury verdict reversed where trial judge refused to excuse a juror for cause when juror testified that she couldn't say her "background" would not cloud her judgment against a claim. When a prospective juror manifests a prior belief that is both material and contestable (it is not bias to cling to a personal belief that no rational person would question), it is the judge's duty to determine whether the juror is capable of suspending that belief for the duration of the trial. *Id.* When the record contains no assurances that the belief is "shakable," that the prospective juror can exercise a judgment unclouded by that belief, the verdict cannot stand. *Thompson*, 627 *citing United States v. Gonzalez*, 214 F.3d at 1114 (2000). ("When a juror is unable to state that she will serve fairly and impartially, despite being asked repeatedly for such assurances, we can have no confidence that the juror will 'lay aside' her biases or her prejudicial personal experiences and render a fair and impartial verdict." That's this case.) Missing are those "unwavering affirmations of impartiality" that permitted the district judge to find the challenged juror unbiased. *Thompson*, at 653.

Prospective Juror Who States "Might" Not Be Fair Because of a Prior Experience and Could Not Set Aside her Prior Experience is Prejudiced and Should Be Removed for Cause

In *People v. Harris*, 196 Ill. App. 3d 663, 676 (1st D. 1990), although a prospective juror had no preconceived notion against the alleged defendant she stated that her father had been murdered nine years earlier, and that her experience "might" affect her ability to be fair and, when questioned further about setting aside her experience, stated that "it would be tough" and

she could not be fair. The *Harris* court held that it was error for the trial court not to excuse the juror for cause. However, the defendant who had exercised a peremptory to remove the juror waived his objection by not objecting that he was forced to accept a subsequent juror. *Id.*

In *People v. Seaman*, 203 Ill.App.3d 871, 889, 561 N.E.2d 188, 199(5th D. 1990), a juror who had twice been a victim of a crime and said she "might be prejudiced" because of it and broke down and cried when questioned about it demonstrated possible prejudice. The Juror's emotional instability could have prevented her from rationally assimilating the evidence. *Id.*

Juror Who Gives False Statements May Be Cause of Removal

A juror who misrepresents his background or is dishonest in his answers to *voir dire* questions. *People v. Gill*, 240 Ill. App. 3d 151, 608 N.E. 2d 197, 181 Ill. Dec. 124 (1st D. 1992) (prospective juror who denied he had ever been accused of a crime, a party or witness in a criminal case excused for cause because suggested dishonesty)

Juror Charged with Prior Crimes May Be Cause

A person having been *charged* with various crimes in the past can be sufficient to excuse that person for cause as a potential juror. *People v. Gill*, 240 Ill. App. 3d 151, 608 N.E. 2d 197, 181 Ill. Dec. 124 (1st Dist. 1992); *People v. Seaman*, 203 Ill.App.3d 871, 889, 561 N.E.2d 188, 199(5th D. 1990)

Juror Who Has Read or Heard Inflammatory News About Case Immediately Before Or During Trial is Biased.

In *Van Hattem v. Kmart Corp.*, 308 Ill.App.3d 121, 129, 719 N.E.2d 212, 220 (1st D. 1999), the plaintiff was depicted in a television news story about pharmacy errors which was broadcast during the trial and which was the subject of the trial. Despite five jurors stating that they could remain impartial after seeing the broadcast, the *Van Hattem* court reversed the trial court's denial of a mistrial because the palpably prejudicial news broadcast could not be necessarily set aside in the jurors' minds under the circumstances--no matter their oath to be fair. *Id*. at 129-30

II. The Objectionable Juror Who Is Rehabilitated

Juror's Sworn Statement That He Can Set Aside Personal Belief, Opinion or Experiences Removes Potential Bias. Juror's Promise to Keep an Open Mind Rehabilitates to an Impartial Juror.

The impact of the *Cole* decision appears throughout the juror rehabilitation cases below.

Jurors Negative Attitude Toward a Legal Defense Is Not Sufficient Grounds

In *People v. Pasch*, 152 Ill. 2d 133 (1992), the mere fact that three jurors had difficulty believing an insanity defense, including one saying the defense is "overused," does not mean they should be disqualified for cause, the jurors also testified that they could fairly and impartially hear the evidence.

Juror Who Read Prior Prejudicial News Story Is Not Cause

In personal injury case alleging a pothole defect in a city street, jurors' testimony that they had read or heard recent news reports about the defendant city's failure to maintain "potholes" did not establish grounds for cause, where jurors also each testified that they could set aside impressions and listen to the evidence, even though one juror expressed some hesitancy. *Parson v. City of Chicago*, 117 Ill. App. 3d 383 (1st D 1983) *(the* news story was related to events two years after occurrence).

People v. Gendron, 41 Ill. 2d 351,355 (1968), pretrial publicity about a crime is not grounds to challenge for cause. Jurors who had read newspaper articles about the alleged crimes but who denied having any preconceived notions as to guilt or innocence. *Id.* see also, *People v. Spagnola*, 123 Ill. App. 2d 171 (1st D 1978).

Juror's "Uncertainty" About Effect of Prior Personal Experiences Is Not Sufficient Cause.

In *People v. Reid*, 272 Ill. App. 3d 301 (1st D. 1995), the defendant was charged with delivery of a controlled substance(cocaine) and a prospective juror was questioned who had many prior experiences involving drugs, including a cocaine abusing business partner who caused the business to fail, a brother-in-law and sister-in-law abusing cocaine and undergoing drug rehabilitation. When asked if his prior experiences had formed any "preconceived notions" about the case, the juror responded: "I would try not to think it would. I don't know what might happen when the trial starts." Further, the juror stated that he thought he could keep an open mind and give both sides a fair trial. *Id.,* 303 The *Reid* court affirmed the trial judge's denial of a motion for cause.

In *People v. Martin*, 271 Ill. App. 3d 346, 353 (1st D. 1995), when asked if could not be fair and impartial, the juror answered:

"I don't think so."

In follow-up questioning, the same juror more specifically stated:

"Like I said, I don't think so. I haven't heard any evidence yet."

The trial judges' refusal to strike the juror for cause was found not to be an abuse of discretion. *Id.,* 353

Juror's Commitment "To Try" to Follow the Law Sufficient to Overcome Personal Belief

In *People v. Johnson*, citation needed a prospective juror was a gun control advocate, and the defendant was on trial for an alleged armed robbery. The juror stated: "she would try" to fair and impartial. *Id.*, 954. The *Johnson* court held that trial judge's decision to deny motion for cause was not an abuse of discretion.

Juror's Commitment to "Do My Best" Not to Allow Personal Experience to Influence Was Sufficient to Deny Cause

In *People v. Tipton*, 222 Ill. App.3d 657, 664 (1991), the prospective juror had a sister who had been raped five years earlier and the case on trial involved sexual assault. When asked if her sister's assault would influence her consideration of the case, she stated: "I don't know. I honestly don't know. I would try…Do my best." The *Tipton* court held that denial of the motion for cause to remove was not an abuse of discretion.

Juror's Attitudes in Favor of Tort Reform Is Not *Per Se* Cause

A prospective juror who testifies that he favors "Tort Reform" is not *per-se* biased and, therefore, subject to disqualification for cause. *Vrzal v. Contract Transportation Systems Co*, 312 Ill. App. 3d 755 (1st D 2000). The *Vrzal* court reasoned that no abuse occurred in denying Plaintiff's motion for cause, because after repeated questioning of the juror, the juror testified that she could be fair to both sides, could keep an open mind, was "an honest" person, did not have a limit to the amount of damages she could award, and that she could follow the law even though she did not like it. The *Vrzal* court relied upon *People v. Williams*, 173 Ill. 2d 48, 66-67 (1996) which held that it is not error to deny motion for cause against a juror who stated that he had bias against guns and their use and who expressed doubts about being unfair, because he later also testified that he "would hear it out" and would decide the case on the law and evidence regardless of bias toward guns)

Juror's Hesitation About Awarding Damages for Pain and Suffering Based on Frequency and Amount of Liabilities Awarded Is Not *Per Se* Cause

In *Flynn v. Edmonds*, 236 Ill. App. 3d 770, 780 (4th D 1992), a prospective juror was asked:

> "Do you have any problems with the idea that a patient or person involved in an automobile accident is able to come into court and ask for damages not only for medical expenses but also for pain and suffering that might be in excess of the actual medical expenses and loss? The juror responded:
>
> *I wouldn't, I would not have difficulty awarding it if the evidence so said that. I guess my hesitation here is the frequency and the amount of liabilities that this country is going through right now."*

Juror's Negative Feelings About People Who Bring Unnecessary Lawsuits Not *Per Se* Cause

In *Addis v. Exelon Generation Co*., 378 Ill. App. 3d 781, 792-93 (1st D. 2007), a prospective juror in a wrongful discharge case stated that she had strong, negative feelings about people who bring lawsuits and that too many lawsuits are unnecessary. However, on further questioning, the juror stated that her opinions on lawsuits would not affect her ability to remain impartial and that employees who feel they are justified in bringing a lawsuit have a right to do so. The *Addis* court affirmed the denial of plaintiff's motion for cause giving great weight to juror's statement that she could be fair and impartial. *Id.*

Juror Sympathy Toward a Party Is Not *Per Se* Cause

In a wrongful death case, trial judge's denial of a challenge for cause against a prospective juror who testified that she had sympathy for the widow was upheld, because she also testified that she could set her sympathy aside and fairly and honestly decide the case, and because judge instructed jury to put sympathy aside which cured potential bias. *Romines v. Illinois Motor Freight, Inc.*, 21 Ill. App. 2d 380 (2d D. 1959).

In personal injury case, although a prospective juror made a statement that he would have sympathy for "young man who lost his leg" and not the railroad, the juror was not incompetent because he swore to obey his oath and do justice between the parties. *Chicago & W. I. R. Co v. Bingenheimer,* 116 Ill. 226, 232 (1886).

Prior Claims: Juror is Not *Per Se* Biased Because Juror Was Involved in Prior Accident, Claim or Settlement against the Same Defendant

A prospective juror who testifies to a prior accident involving the defendant, a settlement to her satisfaction, even though she still experiences some pain is not *per-se* biased or adversarial to defendant. *Magna Trust Co. v. Illinois Cent. R. Co*., 313 Ill. App. 3d 375, 390 (5th D. 2000). The trial judge's denial for cause was affirmed, particularly because the juror had stated she could be fair and impartial. *Id.*

Juror Who Reads Medical Literature Critical of Malpractice Cases Is Not *Per Se* Biased

A prospective juror who stated that he reads and is exposed to opinions in medical publications critical of medical malpractice lawsuits does not establish a probable bias in favor of the defendant. *Taylor v. R.D. Morgan & Associates, Ltd*, 205 Ill. App. 3d 682 (5th D 1990). Juror stated that he did not believe publications. *Id.*

III. Juror's Relationship to a Party

Presumed ("*Per Se*") Bias

In *People v. Cole*, 54 Ill. 2d 401, 413 (1973), the Illinois Supreme Court recognized that there are certain relationships that create presumed bias which disqualifies a person from jury service, such as a prospective juror who is related to a party by blood or sanguinity or who has a direct relationship with a party. The Illinois Appellate courts have commented that "t*he degree closeness of prospective juror to party can demonstrate bias*. *Lair v. Illinois Central Gulf Railroad (Ill. C. G. R. Co.)*, 208 Ill. App. 3d 51, 79 (5th D. 2011)(emphasis added); *Marcin v. Kipfer*, 117 Ill. App. 3d 1065, 1067 (4th D. 1983).

"The trend of authority is to exclude from juries all persons who by reason of their business or social relations, past or present, with either of those parties, could be suspected of possible bias." *Marcin v. Kipfer* 117 Ill. App. 3d 1065, 1067 (4th D 1983), *citing* Hunter, *Trial Handbook for Illinois Lawyers* sec. 15.14 (5th ed. 1983) with approval. The *Marcin* court held that a current physician/patient relationship between the prospective juror and the defendant created per-se bias. *See also People v. Green*, 199 Ill. App. 3d 927, 930 (1990), where a prospective juror was employed as a secretary in State's Attorney's office which was prosecuting the case against the defendant, and the court held she should have been excused for cause, despite testifying to the ability to be fair and impartial. *People v. Stremmel*, 258 Ill. App. 3d 93, 111 (2nd D. 1994), where court held that a prospective juror who is a police officer employed by the same Police Department is *per se* biased, particularly where he would be weighing testimony of civilian witnesses versus police officers, despite his testimony that he could be fair and impartial.

However, despite the alleged trend to exclude jurors based on a social or business relationship, the *Marcin*, *Green* and *Stremm*el cases are the only cases since *Cole* finding a presumption of bias.

Malpractice Cases: Jurors Relationship to Defendant Physician

In Illinois, many cases have examined the question of juror bias against the plaintiff based on some type of juror relationship or connection to the defendant physician.

1. Juror Who Has Current Patient/Physician Relationship with A Party Is *Per-Se* Biased and Should Be Removed for Cause

Juror who has current physician-patient relationship with the defendant physician on trial establishes a *per se* bias which is a challenge for cause. *Marcin v. Kipfer*, 117 Ill. App. 3d 1065, 1067 (4th D. 1983). The defense verdict was reversed for the trial judge's failure to excuse two jurors who were current patients of defendant. The Judge was reversed, even though the prospective jurors each testified that their relationship would not make it difficult to serve and treat Defendant same as any other defendant. *Id.*

However, except for evidence from a prospective juror of a current physician/patient relationship, the courts have not found a presumption of bias. *Roach v. City of Springfield*, 157 Ill. 2d 29, 47 (1993); *Lambie v. Schneider*, 305 Ill. App. 3d 421, 430 (4th D 1999).

2. Juror who was a former patient of Defendant OB/GYN Strongly Suggests *Per se* Bias

In *Fleeman v. Fischer*, 244 Ill. App. 3d 753, 755 (5th D 1993), the court commented that it was a strong argument for cause that a juror who had been delivered successfully by the Defendant was such a "significant event," although in the past, that the relationship was too close for her to be objective. However, the *Fleeman* court found that the Plaintiff had waived the argument by not exhausting his preemptory challenges on such jurors.
Id.

3. Juror's *Spouse* Who Has Current Patient/Physician Relationship Is *Not Per-Se* Biased.

A juror's spouse who is currently a patient of defendant does not establish per-se bias. *Roach v. City of Springfield*, 157 Ill. 2d 29, 47 (1993), *reversed on other grounds*, but distinguishing *Marcin* on its facts. However, closeness of spouse's relationship to Defendant must be assessed on a case-by-case basis. Importantly, in *Roach*, the Court noted that the juror post-trial had testified that he did not even know of wife's patient relationship with defendant until half way through trial, did not think "significant" to report; therefore, no prejudice shown.)

4. **Juror's son who was prior patient of Defendant is Not *Per-Se* Biased**

A prospective juror who had a son treated by Defendant 7 or 8 years earlier was not *per-se* biased. *Flynn v. Edmonds*, 236 Ill. App. 3d 770, 780 (4th D 1992) distinguishing *Marcin* on its facts. In *Flynn*, the court noted that juror said son's prior treatment would not give defendant physician an advantage and he would not hesitate in returning a verdict for the plaintiff. *Id.*

5. Juror Employed in the Medical Field Is Not *Per Se* Bias

A juror's employment in the medical field, his marriage to a nurse, and his acquaintance with the defendant's witnesses does not establish a probable bias in favor of the defendant for which the judge should have granted a cause motion. *Taylor v. R.D. Morgan & Associates, Ltd,* 205 Ill. App. 3d 682 (5th D 1990). Again, juror stated he could be fair. *Id*

6. Juror Who Has In-Law Who Is Defendant's Patient Is Not *Per Se* Bias.

A prospective juror who had father-in-law who underwent open heart surgery by the Defendant and because his condition was declining would probably see Defendant physician again was not *per se* biased. *Lambie v. Schneider*, 305 Ill. App. 3d 421, 430 (4th D 1999).

IV. Relationship to a Party's Employer

Juror's with Same Employer

Police Officer employed in Same Police Department is Per Se Biased

A prospective juror who is a police officer employed by the same Police Department is *per se* biased, particularly where he would be weighing testimony of civilian witnesses versus police officers, despite his testimony that he could be fair and impartial. *People v. Stremmel*, 258 Ill. App. 3d 93, 111 (2nd D. 1994).

However, a prospective juror who works for the same large employer as party at best raises a mere suspicion of bias but is not evidence of bias. *Grady v. Marchini*, 375 Ill. App. 3d 174 (4th D 2007).

However, in *People v. Green*, 199 Ill. App. 3d 927, 930 (1990), the court held that a secretary who was employed in State's Attorney's office should have been excused for cause, despite testifying to the ability to be fair and impartial.)

Juror with Family Members Employed by Defendant Affiliate Insufficient Cause

Juror who testified that she had an aunt and nephew who were employed by ComEd, an affiliate of the Defendant, but did not know what jobs that they held, did not establish prejudice. *Addis v. Exelon Generation Co*, 378 Ill. App. 3d 781, 792 (1st D 2007). Again, the juror testified that she could put family ties aside and be fair and impartial. Id.

Family Relationship with Juror

A prospective juror who has a child related to a child of the Plaintiff does not establish bias. *Grady v. Marchini*, 375 Ill. App. 3d 174 (4th D 2007). (held: Juror with child related to child of Plaintiff who played softball together 10 years ago, but who stated that she could be fair and impartial was not objectionable for cause.)

Juror Relationship to Insurance Companies

A prospective juror who is an insured of a defendant mutual insurance company is not biased. *Rains v. Schutte*, 53 Ill. App. 2d 217 (5th D 1964)

Juror Who is Friend of State's Attorney not Biased

People v. Kuntu, 196 Ill. 2d 105 (2001)

Juror Who Has Father who was Represented by Attorney for a Party not Biased.

Laird v. Ill. C. G. RR, 208 Ill. 3d 51, 78 (5th D. 1991)

Juror Who Simply Knows a Witness Is Not Biased.

People v. Cesarz, 44 Ill. 2d 180 (1969)

A Juror Who Has Been a Party to Lawsuit Is Not *Per Se* Biased

Because a prospective juror has been "sued" or "sued someone" does not, without more, establish sufficient grounds for cause, even if the juror did not reveal it before being selected. *Davis v. International Harvester Co*., 167 Ill. App. 3d 814, 521 N.E. 2d 1282 (2nd D. 1988).

V. Perfecting Objections to Jurors

The Plaintiff's attorney when making a challenge for cause must specifically state the grounds, including why the juror is biased, which is supported by the evidence. *Fandich v. Allstate Insurance Co., Inc*., 25 Ill. App. 3d 301, 307-308, (1st D. 1974); *People v. Cole*, 54 Ill. 2d 401, 414 (1973). Although when the trial judge does not *sua sponte* remove a juror for cause, the attorney who believes a juror should be excused for cause must request it. The failure to make such a request constitutes a waiver of the claim that the juror should have been excused for cause. *Fleeman v. Fischer*, 244 Ill. App. 3d 753, 613 N.E. 2d 836, 184 Ill. Dec. 519 (5th D. 1993).

The Plaintiff's attorney has the burden of showing that the juror possesses a disqualifying state of mind, i.e. bias, prejudice, fixed opinion, when challenging a juror for cause. *People v. Cole*, 54 Ill.2d 401, 413. An attorney's "mere suspicion" of a juror's bias or impartiality is not evidence and does not disqualify a juror for cause. *People v. Kuntu,* 196 Ill. 2d 105 (2001); *Grady v. Marchini*, 375 Ill. App. 3d 174 (4th D 2007).

Any objections made during jury selection, including challenges for cause, must be raised within the party's post-trial motion; otherwise, the issue is waived on appeal. *Brown v. Decatur Memorial Hospital*, 83 Ill.2d 344(1980)

Where a party desires to have the Appellate Court review the propriety of a question asked on *voir dire,* the precise questions must be included in the record on appeal. Otherwise, that Appellate Court would be required to guess or conjecture as to the phraseology and content thereof, which it will not do. *People v. Chamness*, 129 Ill. App. 3d 871 (1st D. 1984).

VI. Preserving Error for Denial of Challenge for Cause

To preserve for appeal an error in your motion for challenge for cause of a juror, the attorney must have already exhausted his preemptory challenges, so that an objectionable juror was forced upon him. *Roach v. City of Springfield*, 157 Ill. 2d 29, 47 (1993); *Grady v. Marchini,* 375 Ill. App. 3d 174 (4th D. 2007). The party claiming that an objectionable juror was foisted upon him must also show prejudice regarding any new, objectionable juror, after he has exhausted his peremptory challenges. *People v. Reid*, 272 Ill. App. 3d 301 (1st D. 1995).

For more how to discussions about jury selection go to
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