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MDL Jury Selection

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MDL JURY SELECTION

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The "bellwether" label for test trials in multi-district litigation (MDL) cases can very easily become a misnomer relative to its historical origin. Depending on the cases selected as bellwethers and on the manner in which those cases are tried, the thirteenth century notion of a *Bellewhether*—the docile ram who travels reliably with its herd so predictably that the shepherd could rely on the sound of a bell tied to the ram's neck to track the location of his flock[1]—may share little in common with the highly individualized test cases selected by MDL counsel to test the collective strength of the broader array of cases combined within the MDL. While some of the litigants in an MDL may present the embodiment of the plaintiffs' collective pleadings, other individual plaintiffs from within the same pool may (and often do) completely undermine the credibility of the plaintiffs' overall case theory, serving as the manifestation of defendants' defenses. If followed blindly, the bell of neither the plaintiff's plaintiff nor the defendants' poster child would lead to the center of the group of plaintiffs in an MDL case today. Accordingly, the selection of bellwether plaintiffs is a complex and important strategic exercise in the course of an MDL proceeding, and one that receives a significant amount of attention both from litigants and from legal analysts and scholars.

Jury selection in an MDL proceeding—and more specifically in the context of individual bellwether trials[2]—comes into view against this backdrop. If counsel assume the representativeness of a prospective bellwether jury, they invite the opportunity for these already significant differences between bellwether plaintiffs to be exacerbated and amplified with the potential for a deep and lasting effect on the resolution of the litigation as a whole. It is precisely because bellwethers are intended as a limited but accurate sample serving as the harbinger of the whole that the selection of a fair, impartial, and representative jury for these cases is so important to ensuring the representativeness and utility of any such trial.

Surprisingly, however, while legal scholarship on MDL-related issues predictably attends to the ***selection of bellwether cases*** (i.e., the particular plaintiffs whose cases will be used as initial test cases), it by and large neglects the ***selection of juries*** for those cases. Perhaps this is because the bellwether trial stage is commonly perceived to fall outside the technical bounds of the MDL proceeding. Relative to the types of massive case-wide and strategic decisions implicated at other stages of an MDL more commonly addressed in legal scholarship, jury selection in an individual bellwether trial may seem local and singular by comparison. Given the immense resources that go into each of the other

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[1] *See* Eldon E. Fallon et al., *Bellwether Trials in Multidistrict Litigation*, 82 TUL. L. REV. 2323, 2323 (citing *In re* Chevron U.S.A., Inc., 109 F.3d 1016, 1019 (5th Cir. 1997)).

[2] This article focuses on jury selection in bellwether trials since the default in MDL proceedings would be remand, and thus juries selected by a home transferring court on remand would no longer represent practice within an MDL.

stages of an MDL, however—from the formation of the MDL through the Joint Panel on Multidistrict Litigation ("JPML"); to the transfer of cases to the selected court and judge; through the proceedings including the arduous and usually lengthy conduct of fact and expert discovery; to the disposition stage, potentially including the MDL court's decision on summary judgment; or to remand the cases to their home courts at that stage[3]—it would be short-sighted for counsel to neglect to devote the same degree of attention to jury selection as that expended on prior stages. To do so would be akin to the marathon runner who, after holding a significant lead throughout the arduous race, stops short of the finish, losing sight of the finish line and losing his lead to a competitor who maintains focus to takes the title and the purse. As Clarence Darrow long ago observed: "Never forget, almost every case has been won or lost when the jury is sworn."[4]

Despite the dearth of legal commentary on this important stage of MDL practice, there is scant reason to believe that counsel do in fact lose focus for this important stage of these cases. This article provides an overview of two recent examples of the detailed examination of different aspects of jury selection in major MDL proceedings: (1) the request by defense counsel in the "Opioids" MDL 2804[5] for extensive records and information regarding the jury selection process in the Northern District of Ohio; and (2) the announcement by the presiding judge in the *In re Roundup* MDL 2741[6] proceeding that he did not intend to permit individualized voir dire questioning of potential jurors in two upcoming bellwether trials. Ultimately, certain jury selection best practices emerge as particularly important in the MDL context, and these are described in the final section of this article.

MDL proceedings are already higher stakes than standard litigation cases on account of one or more of the following reasons: (1) the subject matter of the cases—addressing a specific layer of a complex and interwoven industry and frequently involving complex and/or novel scientific theories attendant to proof of causation; (2) the scale—often thousands of plaintiffs and frequently hundreds of defendants; (3) the procedural history—the MDL action may encompass civil litigation following years of investigations and/or multi-pronged government enforcement actions; and (4) the stakes—the potential in some MDL cases for billions of dollars of damages and still more exposure in reputational harm, with plaintiffs in the cases spanning all fifty states and all walks of life. With each of these situational accelerants comes the potential for increased media coverage and for the prospect of trial-by-press to be used as either an offensive or defensive weapon in the litigation. All of these aspects increase the potential for issues to be amplified to an extent far greater than might be seen in more discrete trials with

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[3] *See* Ryan C. Hudson, Rex Sharp, & Nancy Levit, *MDL Cartography: Mapping the Five Stages of a Federal MDL*, 89 UMKC L. REV. 801 (2021).

[4] *Selecting a Jury Can Be Complicated During Divisive Political Times*, ABA (June 2018), https://www.americanbar.org/news/abanews/publications/youraba/2018/june-2018/selecting-a-jury-can-be-complicated-during-divisive-political-ti/.

[5] Defendant's Motion for Access to Jury Selection Records and Information at 1, *In Re* Nat'l Prescription Opiate Litig., No. 1:17-md-02804 (N.D. Ohio Sept. 20, 2019), ECF No. 2623.

[6] *In re* Roundup Prods. Liab. Litig., No. 3:16-md-02741-VC (N.D. Cal. Oct. 4, 2016).

one or more jurors selected for a bellwether trial. With all of that in play, jury selection in an MDL-related trial is indeed an advanced maneuver.

I. RECENT MDL CASE ACTIVITY RELATING TO JURY SELECTION

A. Opioids Defendants Seek Court Records Regarding Jury Selection Process

Certain defense counsel in the Opioids MDL 2804 proceeding recently underscored their attention to and interest in the jury selection process in that MDL action when they filed a Motion for Access to Jury Selection Records and Information,[7] seeking access to the jury selection records in connection with an upcoming bellwether trial scheduled to take place in the United States District Court for the Northern District of Ohio. As described by the filing defendants in their Motion, the court had undertaken, in advance of the trial, a prospective juror noticing and summons process in which 1,000 summonses were issued to prospective jurors, of which 725 questionnaires had been returned, and nearly seventy percent, or "roughly 500" prospective jurors, had been "excused, deferred and/or exempted for unknown reasons."[8] The filing defendants invoked 28 U.S.C. § 1867(f)[9] of the Jury Selection and Services Act, 28 U.S.C. § 1861, *et seq*., and the Northern District of Ohio's Juror Selection Plan (adopted July 31, 2014), to argue that they had "'essentially an unqualified right to inspect jury lists,' because 'without inspection, a party almost invariably would be unable to determine whether he has a potentially meritorious jury challenge.'"[10] That right, the filing defendants went on, ensures "grand and petit juries selected at random from a fair cross section of the community."[11] They also distinguished their request

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[7] Defendant's Motion for Access to Jury Selection Records and Information, *supra* note 5, at 1.
[8] *Id.* at 1-2.
[9] *Id.*; *see also* 28 U.S.C. § 1867. This section provides that "[i]n civil cases, before the voir dire examination begins, or within seven days after the party discovered or could have discovered, by the exercise of diligence, the grounds therefor, whichever is earlier, any party may move to stay the proceedings on the ground of substantial failure to comply with the provisions of this title in selecting the petit jury." *Id.* § 1867(c). The statute requires for any motion to stay proceedings pursuant to Section (c) a "sworn statement of facts which, if true, would constitute a substantial failure to comply with the provisions of this title," but does not provide a protocol for how parties should obtain the facts in support of such a statement except that Section (f) provides that "[t]he contents of records or papers used by the jury commission or clerk in connection with the jury selection process shall not be disclosed, except . . . as may be necessary in the preparation or presentation of a motion under subsection (a), (b), or (c) of this section, until after the master jury wheel has been emptied and refilled pursuant to section 1863(b) (4) of this title and all persons selected to serve as jurors before the master wheel was emptied have completed such service." *Id.* § 1867(d), (f). Section (e) provides, however, that "[t]he procedures prescribed by this section shall be the exclusive means by which a person accused of a Federal crime, the Attorney General of the United States or a party in a civil case may challenge any jury on the ground that such jury was not selected in conformity with the provisions of this title." *Id.* § 1867(e).
[10] Defendant's Motion for Access to Jury Selection Records and Information, *supra* note 5, at 2 (citing Test v. United States, 420 U.S. 28, 30 (1975)).
[11] *Id.* at 3 (citing *Test*, 420 U.S. at 28).

for these ***records relating to*** the jury selection process from an actual ***challenge to*** the jury selection process, noting that in order to receive the requested records, a litigant need only "allege that he is preparing a motion to challenge the jury selection process," whereas in order to actually mount a challenge to the process, a litigant would be required to submit a sworn statement of facts in support of that challenge.[12]

On that basis, the *Opioids* defendants requested "immediate access" to twelve broad categories of documents and information from the court clerk's office relating to the jury selection process in that case, including but not limited to: all documents, correspondence, communications, and the like, "reflecting the process by which jurors were selected from the Master Wheel," and/or regarding "the Clerk's and/or Court's decision to exclude, except, or defer prospective jurors," as well as a "list of jurors approved for excusal, exception, or deferral, and all demographic information available, including age, gender, racial, ethnic, employment, and income information."[13]

Plaintiffs opposed the filing defendants' motion, pointing first to the "general rule" in Section (f) of the statute that the "contents of records or papers used by the jury commission or clerk in connection with the jury selection process shall not be disclosed . . . until after . . . all persons selected to serve as jurors before the master wheel was emptied have completed such service," but acknowledging the exceptions to that general rule, which include disclosure "as may be necessary to the preparation or presentation of a motion under subsection (a), (b), or (c) of this section."[14] Plaintiffs asserted in their opposition motion, however, that the filing defendants' assertion pursuant to that exception, i.e., that they anticipated filing a motion under subsection (c), was "completely baseless and should be rejected."[15] Plaintiffs also argued that the rate of excusal described by defendants in their motion was perfectly appropriate relative to both the "extreme hardship" provision of 28 U.S.C. § 1866(c)(1), and to the Northern District of Ohio's Juror Selection Plan Section O, which provides that "temporary excuses on the grounds of undue hardship or extreme inconvenience may be granted by the court, and, under the court's supervision, by the clerk of court," in light of the fact that the trial was anticipated to last seven weeks and challenged the scope of the materials defendants requested.[16]

The Northern District of Ohio (Judge Polster) rejected plaintiffs' argument that the defendants' prospective challenge to the sufficiency of the jury selection

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[12] *Id.* (citing United States v. Williams, CR. No. 06-00079, 2007 WL 1223449, at *1, *5-6 (D. Haw. Apr. 23, 2007) and United States v. Royal, 100 F.3d 1019, 1025 (1st Cir. 1996)). Indeed, this makes sense, since a litigant would first need to obtain access to the records reflecting the jury selection process in order to support a challenge to that process.

[13] *Id.*

[14] Plaintiffs' Response in Opposition to Motion for Access to Jury Selection Records and Information at 1, *In re* Nat'l Prescription Opiate Litig., No. 1:17-md-02804 (N.D. Ohio Sept. 25, 2019), ECF No. 2623 (citing 28 U.S.C. § 1867(f)).

[15] *Id.*

[16] *Id.* at 2 ("[I]t is to be expected that a significant majority of potential jurors would invoke this process and be excused by the Court from a seven-week trial for the undue hardship or extreme inconvenience this extended service would cause them.") (citing 28 U.S.C. § 1866(c)(1) and *Juror*

process needed to be *prima facie* viable, holding that "in requesting information under § 1867(f), a defendant does not need to show probable success or probability of merit in a proposed jury challenge."[17] That said, the court granted defendants' motion in part—holding that defendants were entitled to only a small amount of the information they requested—and denied the remainder of the motion to the extent it exceeded the scope necessary to assure the jury is selected at random from a fair cross section of the community.[18] The court also denied the motion insofar as it purported to require the court staff to "compile lists," explaining that § 1867(f) grants entitles parties to access only to "records and papers already in existence; it does not entitle defendants to require jury administrators to analyze data on their behalf."[19] Specifically, the court addressed several categories of the information sought by defendants by reference to the court's Jury Selection Plan website,[20] and then ordered that defendants were entitled to:

> (1) a list of individuals selected from the qualified wheel to be summonsed as prospective jurors; (2) the Juror Qualification Questionnaires for the individuals summonsed as prospective jurors; and (3) the Extreme Hardship Forms for the individuals summonsed as prospective jurors (which will reflect whether the request was accepted or denied).[21]

The court held that the more limited set of information would provide defendants with the demographic composition of those who received summonses, as well as those who were excused for hardship (and for what reason they were excused), as well as those who remained in the jury pool. The court further ordered that the information to be provided would be redacted to protect the prospective jurors, masking all personal information (i.e., names, addresses, phone numbers, and email addresses), identifying the prospective jurors only by their juror identification numbers.[22]

B. *In re Roundup* Judge Announces Intent to Restrict Individual Voir Dire

In October 2019, the Hon. Vince Chhabria of the United States District Court for the Northern District of California presiding over the *In re Roundup*

Selection Plan, U.S. Dist. Court N. Dist. of Ohio 6 (July 31, 2014), https://www.ohnd.uscourts.gov/sites/ohnd/files/JurySelectionPlan.pdf and United States v. Barnette, 800 F.2d 1558 (11th Cir. 1986) (describing a similar length of anticipated trial and rate of excusal for hardship in that case)).

[17] Opinion and Order Granting in Part and Denying in Part Defendants' Motion for Access to Jury Selection Records and Information at 4, *In re* Nat'l Prescription Opiate Litig., No. 1:17-md-02804 (N.D. Ohio Sept. 25, 2019), ECF No. 2684 (citing U.S. v. Alden, 776 F.2d 771, 774 (8th Cir. 1985); U.S. v. Beaty, 465 F.2d 1376, 1380 (9th Cir. 1972); Gov't of Canal Zone v. Davis, 592 F.2d 887, 889 (5th Cir. 1976); U.S. v. Royal, 100 F.3d 1019, 1026 (1st Cir. 1996)).

[18] *Id.* at 4-5.

[19] *Id.* at 6.

[20] *Id.* at 2 n.1.

[21] *Id.* at 5.

[22] *Id.*

Products Liability Litigation, MDL 2741,[23] announced his intention, with respect to the upcoming bellwether trials in that action, not to permit counsel for the parties to individually voir dire potential jurors. Judge Chhabria explained to the parties that although he understood why some degree of extra screening beyond the court's normal process for civil trials might be necessary, "given who the defendant is and given the subject matter," that "all this business of individually voir diring jurors. . . I have a pretty strong reaction against that."[24] Judge Chhabria observed that the degree of individual questioning proposed by Monsanto's counsel was more appropriate in "a death penalty case."[25] Rather than questioning potential jurors individually, Judge Chhabria suggested that the parties should instead begin by screening potential jurors for possible hardship excuses relative to the projected month-long trials, and then the court would question the remaining potential jurors as a group.[26]

In response, counsel for the defendant, Monsanto Company, expressed concern that a recent $289 million state court verdict against Monsanto from a trial also held in San Francisco might bias potential jurors against his client in the upcoming cases. Were the court to engage in group questioning of potential jurors, Monsanto's counsel argued, if one or more jurors discussed "his or her hostility toward Monsanto, it can taint and pollute the entire venire."[27] Judge Chhabria countered that individuals in group voir dire screenings routinely express various types of hostility to defendants, but suggested that such expressions do not taint every such jury, and, that in presiding over the group voir dire, he was poised to cut off any potentially hostile commentary and to provide instruction to the pool of jurors to eliminate the potential for harm from such discussion.[28] The court requested briefing from the parties to address the question of whether individual voir dire was necessary under the circumstances.

Monsanto argued in its brief that widespread media coverage of the recent verdict against the company—including paid advertisements run by groups supporting plaintiffs and celebrity public discourse on the case and the verdict—resulted in a significant proportion of potential jurors in the Bay Area being aware of the recent verdict, including its amount, and that many of those aware of the verdict had specific views regarding Monsanto as a company.[29] In light of the widespread local knowledge of the recent verdict, Monsanto

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[23] *In re* Roundup Prods. Liab. Litig., No. 3:16-md-02741-VC (N.D. Cal. Oct. 4, 2016).

[24] Transcript of Proceedings at 49, *In re* Roundup Prods. Liab. Litig., No. 3:16-md-02741-VC (N.D. Cal. Oct. 4, 2016), ECF No. 2219-2; *see also* Hearing Transcript at 30, *In re* Roundup Prods. Liab. Litig., No. 3:16-md-02741-VC (N.D. Cal. Oct. 4, 2016), ECF No. 2280.

[25] Transcript of Proceedings at 51, *In re* Roundup Prods. Liab. Litig., No. 3:16-md-02741-VC (N.D. Cal. Oct. 4, 2016), ECF No. 2219-2.

[26] *Id.* at 49.

[27] *Id.* at 51.

[28] *Id.* at 55-56.

[29] Plaintiff's Brief Addressing the Standard for Striking Jurors for Cause at 2-4, *In re* Roundup Prods. Liab. Litig., No. 3:16-md-02741-VC (N.D. Cal. Oct. 4, 2016), ECF No. 2219 (attaching as Exhibit to brief the report of a marketing research expert to quantify and describe the extent of knowledge extant in the potential juror pool).

urged the court that individualized voir dire was appropriate. Monsanto cited *Skilling v. United States*[30] as support for its position. In *Skilling*, the court engaged in individualized questioning of potential jurors, "thus preventing the spread of any prejudicial information to other venire members," and the parties were permitted to ask "followup questions of every prospective juror brought to the bench for colloquy."[31] Monsanto advocated for the use of juror questionnaires to identify those potential jurors with knowledge of the recent verdict, and "[i]n the event the Court is unwilling to presume bias" as to such jurors, asked that it permit individualized voir dire for counsel to explore the extent of such jurors' knowledge and/or views as to Monsanto.[32]

Plaintiffs argued that a "'presumption of prejudice' because of adverse press coverage 'attends only in the extreme case,'" and that news coverage in a large metropolitan area and of a "primarily factual" nature should be attributed less weight toward such a presumption.[33] In addition, plaintiffs argued that because much of the media coverage of the recent verdict came from Monsanto and its parent company, Bayer, and was actually prejudicial to plaintiffs, rather than to Monsanto,[34] such a presumption should not apply and that any potential bias should instead be explored in group voir dire.

Judge Chhabria thereafter ruled that although he would not go so far as urged by Monsanto's counsel—i.e., he would not "presume bias" as to any jurors with any knowledge of the recent verdict—he would treat those with knowledge of the verdict differently in voir dire.[35] Depending on the jurors' responses, Judge Chhabria would excuse certain jurors at the outset, and then potentially engage in a group discussion with only the jurors who indicated knowledge of the verdict during voir dire.[36]

II. PRACTICAL TAKEAWAYS FOR JURY SELECTION IN MDL TRIALS

As illustrated in the two recent examples discussed above, the overall aims and basic principles applicable to jury selection in the context of an MDL are the same as in a more discrete case, but the scale is likely broader, the subject matter and procedural history more complex, and the stakes greater, and thus the import of each selection—or exclusion—from among the venire carries heightened

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[30] 561 U.S. 358, 381 (2010).
[31] Plaintiff's Brief Addressing the Standard for Striking Jurors for Cause at 6 (quoting *Skilling*, 561 U.S. at 389) (internal quotation marks omitted).
[32] *Id.* at 7 (citing Silverthorne v. United States, 400 F.2d 627, 639 (9th Cir. 1968) (The "court should make a careful individual examination of each of the jurors involved, out of the presence of the remaining jurors, as to the possible effect of the articles.")).
[33] Plaintiffs' Brief About Whether Exposure to News About the Litigation Should Disqualify a Prospective Juror, *In re Roundup*, MDL 2741 at 2 (quoting Hayes v. Ayers, 632 F.3d 500, 511 (9th Cir. 2011) and Ainsworth v. Calderon, 138 F.3d 787, 795 (9th Cir.), *op. amended on denial of reh'g*, 152 F.3d 1223 (9th Cir. 1998) (citing Harris v. Pulley, 885 F.2d 1354, 1362 (9th Cir. 1988)).
[34] *Id.* at 5.
[35] Hearing Transcript, *supra* note 24, at 30.
[36] *Id.*

importance. Moreover, due to the aforementioned attributes of MDL cases, it is far more likely that prospective jurors will come into the case with at least some knowledge of the issues at play, if not particularized knowledge of the specific case or bias against one of the parties. Increased scrutiny of and attention to the jury selection process in an MDL action is therefore warranted. As Florida Supreme Court Justice Adkins wrote in his famous dissent in *Ter Keurst v. Miami Elevator Co.*: "The change of a single juror in the composition of the jury could change the result."[37]

The following principles are drawn from my own personal experience in MDL jury trials, as well as my informal survey of esteemed colleagues and my review of the literature on these topics.[38]

A. Ensure a Representative Jury

At the very least, parties will want to ensure that the venire for any particular bellwether trial is drawn from a large enough pool that it is possible to draw a demographically (i.e., race, gender, socio-economic) diverse and representative venire. And as the motion practice in the Opioids MDL illustrated, parties will also want to ensure that the court's process for selecting from among the broader juror pool is both fair and randomized.

B. Address Hardships

Though perhaps the most straightforward of the bases for excusing potential jurors, it is important to ensure that jurors' potential hardships in serving on the type of trial, and for the anticipated length of trial, are addressed. Vast trial prep resources and valuable time are lost if a mistrial results from the attrition of individual jurors over the course of trial, or worse, a last-minute revolt of empaneled jurors who come to appreciate too late what the impending trial may entail for them personally.

C. Identify Possible Juror Bias

The use of jury questionnaires is now commonplace, but not universal. In most instances, and particularly in the MDL context, parties benefit from the use of at least some form of questionnaire. Disputes emerge as to the specific form of questionnaire and the degree to which the questionnaire should probe beyond jurors' demographic statistics and experiential responses to explore their attitudinal views and opinions prior to voir dire. At base, however, some form of joint, agreed form of questionnaire is typically invaluable for both plaintiffs' and defense counsel in the MDL context. Questionnaires permit the court and the

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[37] 486 So. 2d 547 (Fla. 1986).

[38] Thank you to my partners Mike Brock and Mike Jones for sharing their insight and experiences relative to jury selection in MDL cases both in preparation for this article, and in the course of preparing for trials together.

parties an opportunity to identify uncontroversial strikes for cause in advance without using valuable live courtroom time to discern such categorical strikes, and also to manage the vast details about the jury venire prior to the start of live fire voir dire.[39]

Fundamentally, however, for a questionnaire to be useful, the parties must have enough time to process the results and incorporate the information into their plans for voir dire. In fact, a questionnaire without sufficient time before voir dire can be worse than no questionnaire at all. That is because once a prospective juror has taken the time to complete such a questionnaire about themselves, they will expect counsel to respect that effort and not to ask the same questions again. In situations where counsel is not permitted sufficient time to review the questionnaires, jurors have been known to show swift animosity to lawyers perceived to lack respect for those jurors or their time by (apparently) disregarding their questionnaire responses.

Jury questionnaires are most helpful in cases in which the parties are limited either in time or in form as to the scope of live voir dire. Whether and how the parties seek to delve into attitudinal questions will depend in part on the extent of live voir dire permitted, and also on the nature of the questions proposed by either party. In many cases, counsel deem a shorter questionnaire to which the parties have agreed to be superior to a longer questionnaire that includes questions from either side unilaterally and risks including attitudinal questions that could begin to suggest outcomes on particular issues.

D. Confirm and Attend to the Mechanics of Voir Dire

Who will do the questioning, lawyers or judge, or some combination of both? Will the questioning be conducted to potential jurors as a group or individually? What will be the process for attorney follow-up on juror responses? Are there local rules that provide a default plan for voir dire? What is the legal standard for striking a juror "cause" in this jurisdiction? How will that standard apply in the context of this specific MDL action, given the facts and law applicable to the case? Lawyers for the parties should consider and seek answers to each of

[39] Separate from the jury questionnaire, attorney research into potential jurors has also become increasingly commonplace as the amount of publicly available social media and other online information about individuals has increased. Along with that, questions have emerged about the scope of permissible investigation into potential jurors. One widely accepted line as to that limit is the principle that counsel for the parties should not, in the course of their research efforts, seek to engage the potential or actual jurors in any way (e.g., in an effort to goad a juror into revealing his or her true feelings on a topic). *See e.g.*, ABA Standing Comm'n Ethics & Prof'l Responsibility, Formal Op. 466 (2014).

these questions in planning for what may be an accelerated voir dire experience at the start of an MDL bellwether trial.