

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CORTNEY KAISER, individually, and as mother
and next friend of C.B., a minor,

Plaintiff,

v.

VOIR DIRE
DRAFT 11/4

THE MONROE CLINIC, INC., JAMES J. EHLE, and
WISCONSIN INJURED PATIENTS AND FAMILIES
COMPENSATION FUND,

19-cv-315-jdp

Defendants.

Introduction

This case is about the delivery of Cortney Kaiser's baby at the Monroe Clinic Hospital in Monroe, Wisconsin in September 2016. Kaiser alleges that her obstetrician, James Ehle, as well as the Clinic's nursing staff were negligent in their handling of the delivery, resulting in permanent injuries to the child. The Clinic and Ehle deny that they were negligent.

1. Have any of you ever heard of this case before today? Follow up at sidebar.
2. The trial of this case will begin today and will likely last 10 days, until _____. Are any of you unable to serve as a juror during this time?

Knowledge of parties and others

3. Ask counsel to stand and tell the jury where they practice and with whom. Ask panel whether anyone knows counsel or their associates or partners.
4. Ask counsel to introduce the parties. Ask panel whether anyone knows any of the parties.
5. The witnesses in the case may include the following individuals:
 - Bob Kaiser
 - Tim Babler
 - Susan Weber
 - Laura Mahlmeister
 - Sarah Mulkey
 - Alexander Rottenberg

- Luke Linscott
- James Green
- Gary Yarkony
- David Gibson
- Michael Ward
- Frederick Edelman
- Rita Wick
- Crystal Zimmerman
- Natlie Henning
- Morgan Duncan
- Mark Simms
- Brian Locker
- Jerome Barakos
- Robert Schavelle
- Robert Steiner
- Tim Riley
- Elizabeth Gilles
- Mary Kay Kolar
- Frederick Kolb
- Michael Msall
- Julie Zimmerman
- Jonathan Fanaroff

Do any of you know any of the witnesses?

6. Do any of you know the judge or court personnel?
7. Do any of you know any of the other people on the jury panel?

Questions to each prospective juror

8. Please stand up and tell us about yourself:
 - Name, age, and city or town of residence.
 - If you live in Madison, how long have you lived here?
 - Marital status and number of children, if any.
 - Current occupation (former if retired or currently unemployed).
 - Have you ever owned or managed a company?
 - Current (or former) occupation of your spouse or domestic partner.
 - If you have adult children, what do they do?
 - Any military service, including branch, rank and approximate date of discharge.
 - How far you went in school and major areas of study, if any.
 - Memberships in any groups or organizations.
 - Hobbies and leisure-time activities.
 - Media consumption. What are your favorite types of reading materials, what sources do you use for news, what types of television, radio shows, or podcasts do you watch or listen to, what types of websites do you visit?
 - Have you ever written a letter to the editor in a newspaper or magazine?
 - Do you have any bumper stickers on your car? If so, what do they say or depict?

Case-specific questions to the panel

Jurors may request that sensitive topics be addressed at side-bar

Litigation experience and opinions

9. Have you, a relative, or a close friend been a party to a lawsuit?
10. Have you, a relative, or a close friend ever been a witness in a lawsuit?
11. Have you, a relative, or a close friend served on a jury? Follow up: nature of the case; find for plaintiff or defendant; were you the foreperson?
12. Do you have strong opinions, whether positive or negative, about people who go to court to obtain relief for wrongs they believe they have suffered?

Specialized knowledge or experience

13. Have you, a relative, or a close friend ever worked in health care? If so, what was the job and who was the employer?
14. Do any of you, a relative, or a close friend have cerebral palsy?
15. Do any of you have experience, training, or specialized knowledge about cerebral palsy?
16. Do any of you, a relative, or a close friend have another disability? If so, do any of you believe that your disability was caused in part by problems during pregnancy, labor, or delivery?
17. Do any of you have a health condition that you believe is related to a genetic problem?
18. Do any of you care for a disabled person? If so, what care do you provide and what is your relationship to that person?
19. Have any of you or a partner encountered any of the following complications during the delivery of your baby:
 - a. Shoulder dystocia?
 - b. A newborn that needed resuscitation?
 - c. A newborn that suffered a seizure?

20. Have any of you or a partner had a caesarean-section delivery of a baby? If so, what was the reason and what was the outcome?
21. Have any of you or a partner otherwise had an unusually difficult pregnancy, labor or delivery?
22. Have any of you or a relative ever received medical care that caused you injury?
23. Have any of you filed a lawsuit or other complaint about medical care that you received? If so, what happened, and were you satisfied with the result?
24. Do any of you believe that a person who has been sued must have done something wrong?
25. The party with the burden of proof in this case will be the plaintiff. Do any of you believe that the defendants should have the burden to prove that they didn't violate the law?
26. Neither Cortney Kaiser nor her son, Colton, will be present throughout the trial. Will the absence of the plaintiffs affect your ability to be fair and impartial in this case?

Conclusion

27. At the end of the case, I will give you instructions that will govern your deliberations. You are required to follow those instructions, even if you do not agree with them. Is there any one of you who would be unable or unwilling to follow my instructions?
28. Do you know of any reason whatsoever why you could not sit as a trial juror with absolute impartiality to all the parties in this case?