
ALTERNATE CASE PROBLEMS

CHAPTER 3

COURT PROCEDURES

3-1. Jury Selection. Benjamin Omoruyi was convicted in a federal district court for the possession of counterfeit securities in violation of federal law. Omoruyi appealed his conviction to the U.S. Court of Appeals for the Ninth Circuit, arguing that the district court erred by permitting the government to peremptorily challenge female prospective jurors on the basis of gender. (In a previous case decided by the Ninth Circuit, that court had held that equal-protection principles prohibit striking potential jurors on the basis of gender.) The first government peremptory challenge was exercised against an unmarried white woman, and the second was exercised against an unmarried black woman. Omoruyi objected to the second challenge on the basis that it was racially discriminatory. In response to the district court's request to explain the challenge, the government counsel responded: "Because she was a single female and my concern, frankly, is that she, like the other juror I struck, is single and given defendant's good looks would be attracted to the defendant." The district court denied Omoruyi's motion for a new jury. In response to Omoruyi's allegations on appeal, the government argued that the peremptory strikes were based on marital status, not gender. How should the court decide? Discuss fully. [*United States v. Omoruyi*, 7 F.3d 880 (9th Cir. 1993)]

3-2. Discovery. Joseph Stout, while on the job as a construction worker, fell from a beam that he was attempting to secure to a steel column. As a result of the fall, Stout sustained injuries that rendered him a paraplegic. Stout brought suit against his employer, A. M. Sunrise Construction Co., and Central Rent-A-Crane, Inc., for damages. Prior to the trial, a number of discovery motions were filed by the defendants, who sought detailed information on the nature of the accident and the injuries incurred. Stout repeatedly failed to respond to these requests, even when the trial court ordered him to do so. Finally, the trial court dismissed the action because of Stout's failure to respond. Stout appealed the dismissal. On appeal, Stout claimed that the trial court had abused its discretion by dismissing his action against the defendants, thus depriving him of his right to be heard in court. What will the appellate court decide? [*Stout v. A. M. Sunrise Construction Co.*, 505 N.E.2d 500 (Ind.App. 1987)]

3-3. Motion for Summary Judgment. Mary Sabo suffered injuries in an automobile accident caused by Daniel Hoag, an intoxicated driver. Hoag had just left Peoples Restaurant after having consumed a large number of drinks. Sabo sued Peoples for damages, alleging that the restaurant had violated a state statute that provided that any person who "knowingly serves" an individual who is "habitually addicted" to alcohol

may be held liable for any injuries or damages caused by the intoxication of that individual. In spite of evidence indicating that for the two years prior to the accident, Hoag had gone to Peoples twice a week and on each occasion had drunk liquor until he was intoxicated, the trial court granted Peoples' motion for summary judgment. The court held that Sabo had failed to show that Peoples had knowledge that Hoag was an alcoholic and the bar had therefore not "knowingly" served an alcohol addict. Sabo appealed. The appellate court reversed the trial court's ruling, and Peoples appealed the case to the Supreme Court of Florida. Was summary judgment for Peoples appropriate in this case? [*Sabo v. Peoples Restaurant*, 591 So.2d 907 (Fla. 1991)]

3-4. Motion for a New Trial. Ms. Hummel sued Dr. James Strittmatter and his professional corporation, the Gainesville Radiology Group, P.C. ("the Group"), for medical malpractice. Hummel alleged that the Group was negligent in failing to timely diagnose her breast cancer after a mammogram examination. During *voir dire*, jurors were asked if any of them had family members who had been diagnosed with breast cancer or other forms of cancer, how the cancer had been diagnosed, and whether there had been any recurrence. One juror made no response, but it was later discovered that the juror's wife had died of breast cancer some years before. When the trial court jury returned a verdict for the Group, Hummel moved for a new trial on the ground that the juror had violated his oath and failed to disclose pertinent information during *voir dire*. In opposing the motion, the Group submitted an affidavit signed by the juror in which the juror averred that he had not answered the question because he had not heard it and that the cause of his wife's death had not influenced his judgment in the case. Did the juror's failure to hear the question about cancer constitute juror misconduct to the extent that Hummel's motion for a new trial should be granted? [*Hummel v. Gainesville Radiology Group, P.C.*, 205 Ga.App. 157, 421 S.E.2d 333 (1992)]

3-5. Motion to Dismiss. Martin brought a civil rights action against his employer, the New York Department of Mental Hygiene, when it failed to promote him on several occasions. His complaint stated only that the defendant had discriminated against him on the basis of race by denying him "the authority, salary, and privileges commensurate with this position." The employer made a motion to dismiss the claim for failure to state a cause of action. Discuss whether the employer could be successful. [*Martin v. New York State Department of Mental Hygiene*, 588 F.2d 371 (2d Cir. 1978)]

3-6. Jury Trials. On June 16, 1986, the director of the Administrative Office of the U.S. Courts notified all federal district courts that no civil jury trials could be initiated until the end of the fiscal year (September 30) due to lack of funds with which to pay the jurors. Armster and others claimed that the consequent delay (of three and a half months) in scheduling a jury trial violated the Seventh Amendment right to a civil jury trial. The Justice Department maintained that although the Sixth Amendment guarantees a speedy criminal jury trial, the Seventh Amendment does not guarantee a speedy civil jury trial. The Justice Department further noted that district courts have postponed civil jury trials before, although for other reasons—such as court-calendar congestion, the lack of a sufficient number of judges, and the priority accorded to trying criminal cases before civil actions. Discuss whether the suspension of civil jury trials for a period of three and a half months due to lack of funds to pay jurors violates the constitutional right to a trial by jury. Are people always entitled to a jury trial in civil

lawsuits? [*Armster v. U.S. District Court for the Central District of California*, 792 F.2d 1423 (9th Cir. 1986)]

3-7. A QUESTION OF ETHICS

The state of Alabama, on behalf of a mother (T.B.), brought a paternity suit against the alleged father (J.E.B.) of T.B.'s child. During jury selection, the state, through peremptory challenges, removed nine of the ten prospective male jurors. J.E.B.'s attorney struck the final male from the jury pool. As a result of these peremptory strikes, the final jury consisted of twelve women. When the jury returned a verdict in favor of the mother, the father appealed, asserting that the trial court erred in overruling his objection to the state's removal of potential male jurors through the use of its peremptory challenges. The father argued that the use of peremptory challenges to eliminate men from the jury constituted gender discrimination and violated his rights to equal protection and due process of law. The father requested the court to extend the principle enunciated in a United States Supreme Court case that prohibited peremptory strikes based solely on race, to include gender-based strikes. The appellate court, following a precedent established by the state's supreme court, refused to do so and affirmed the lower court's decision that J.E.B. was the child's father and had to pay child support. [*J.E.B. v. State*, 606 So.2d 156 (Ala.App. 1992)]

1. Do you agree with J.E.B. that the state's exercise of its peremptory challenges violated his right to equal protection and due process? Why or why not?
2. If you were the judge, how would you rule on this issue?
3. The late United States Supreme Court Justice Thurgood Marshall urged that peremptory challenges be banned entirely. Do you agree with this proposal? Discuss fully.