

Appellate Practice Pointer
Carver v. Niedermayer

Today, January 25, 2006, Florida's Fourth District Court of Appeal (West Palm Beach) issued its opinion in Carver v. Niedermayer, Case No. 4D04-2381 (Fla. 4th DCA Jan. 25, 2006). The issue was whether the trial court abused its discretion in a personal injury case by limiting counsel's questioning of all prospective jurors to a total of 45 minutes. As the Fourth District stated, the trial judge initially "announced for the first time at the beginning of jury selection that, after the Judge's own preliminary questioning, he would limit counsel's questioning of all prospective jurors to a total of 30 minutes." The allotted time was later extended to 45 minutes. Since there were 19 potential jurors to be examined, counsel's time with each juror was limited to 2-3 minutes.

The appellate court reversed the judgment and held that a new trial was necessary. The court stated: "[t]he fact that the trial judge has conducted an examination of jurors before turning over the questioning to counsel does not, in and of itself, justify such limits on counsel's voir dire." Further, the court provided additional guidance to trial judges and practitioners by stating: "[w]e also think it was an abuse of discretion not to advise counsel of any limits on juror selection until the beginning of juror examination." The appellate court concluded: "[w]e think even reasonable limits on juror selection should be made known some fair time before trial begins."

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