

WHO WILL BE ON THE JURY FOR MY CRIMINAL JURY TRIAL IN NEW YORK?

Whether or not it is in your best interest to proceed to trial by jury is a decision that can only be made by you after careful deliberation and consultation with your attorney; however, you cannot, make an informed decision unless you have a basic understanding of who the jurors might be and how a final jury is chosen in New York.



Adam M. Thompson



When you are arrested and charged with a criminal offense in the State of New York the judge will advise you of a number of rights you have with regard to your case. One of those rights is the right to have your case decided by a jury of your peers. Whether or not it is in your best interest to proceed to trial by jury is a decision that can only be made by you after careful deliberation and consultation with your criminal defense attorney. You cannot, however, make an informed decision about how best to resolve your case unless you have a basic understanding of who the jurors might be and how a final jury is chosen in New York.

TRIAL BY JURY – A FUNDAMENTAL RIGHT

The right of an accused to a trial by jury is considered a fundamental right in the United States. The right to a jury trial was first included in the Bill of Rights,

created shortly after the United States Constitution was created. The right to a trial by jury is found in the Fourth Amendment which reads:

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.”

Reinforcing this right, Article 1, Section 2 of the New York State Constitution reads:

“Trial by jury in all cases in which it has heretofore been guaranteed by constitutional provision shall remain inviolate forever;”

EXERCISING YOUR RIGHT TO A JURY TRIAL

Although the right to a jury trial is a fundamental right it is sometimes necessary to proactively assert the right. When the offense charged is a felony, most courts presume the case will proceed to jury trial unless informed otherwise by the defendant. In that case, you must formally waive your right to trial by jury if you decide not to exercise the right. This might be the case if you have agreed to enter into a guilty plea agreement with the State of New York or if you have decided to allow a judge to decide the outcome of your case, known as a “bench

trial” or “trial by judge”. If the offense with which you are charged is a misdemeanor, you may need to advise the court that you wish a jury trial to ensure that your right to a trial by jury is honored.

JURY SELECTION – THE JURY OF YOUR PEERS

On the day of your jury trial a jury must be selected. This process is known as “voir dire” and can be a time consuming and complex process. Clearly, the goal



of both sides is to select jury members who are likely to be sympathetic to that side’s argument during trial.

Therefore, you want people on the jury who will be reluctant to convict you. In New York, potential jurors are summoned from names found on the list of registered voters, holders of

drivers’ licenses or ID’s issued by the Division of Motor Vehicles, New York State income tax filers, recipients of unemployment insurance or family assistance, and from volunteers. A large group of potential jurors will show up on the day of trial. Eventually, the final jury will be chosen from among those who answered the summons to appear.

JURY CHALLENGES – CHOOSING THE FINAL JURY

An initial group of potential jurors will begin the selection process by entering the courtroom. Your attorney, the prosecuting attorney, and the judge may all ask questions of the potential jurors. Based on the answers given, some will be

excused as a result of a challenge for cause. A challenge for cause means that there is a legal reason why the potential juror cannot sit on the jury, such as bias or a pre-existing relationship with a party to the case. Challenges for cause are unlimited. Others will be excused as a result of peremptory challenges.

Peremptory challenges provide each side with the ability to excuse a potential jury for almost any reason. The number of peremptory challenges are limited as follows:

- Twenty for the regular jurors if the highest crime charged is a class A felony, and two for each alternate juror to be selected.
- Fifteen for the regular jurors if the highest crime charged is a class B or class C felony, and two for each alternate juror to be selected.
- Ten for the regular jurors in all other cases, and two for each alternate juror to be selected.

Once all of the peremptory challenges have been exhausted by both sides, and there are no more challenges for cause left, the final jury has been chosen. For more serious offenses the final jury will consist of 12 jurors and at least two alternates while less serious offenses are tried by a jury of six with at least one alternate.

Deciding to take your criminal case to jury trial is a serious decision that will have long lasting consequences. The decision, therefore, should only be made with the advice and guidance of your New York criminal defense attorney.

If you are considering exercising your right to trial by jury in New York, please call the Law Offices of Adam M. Thompson today to discuss the implications of this important decision with an experienced criminal defense attorney.

Contact Us Today About Your Case

If you would like to have Mr. Thompson personally review your case, please fill out our **free case review form**. Mr. Thompson will review your evaluation form and respond in writing to your request. If you would like to speak to Mr. Thompson immediately about your case, call for a free telephone consultation

24 hours a day / seven days a week, at 212-267-2424

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About the Author



Adam M. Thompson

Seasoned New York attorney Adam Thompson, the Law Offices of Adam M. Thompson's senior partner and owner, has over 25 years of courtroom and trial experience. He is a well-respected litigator who fights hard for every client, bringing enormous energy, unmatched determination, and contagious enthusiasm to each case.

This is reflected in his excellent results and reputation. He has successfully handled thousands of cases, obtained personal injury settlements worth millions of dollars, and obtained not guilty verdicts in some of the most difficult high-profile criminal cases.

Mr. Thompson is often a featured legal expert and analyst for major television, cable, and radio news media sources, including CNN, HLN, FOX, ABC, NBC, WPIX, WOR, and more. [Click here](#) to see one of Mr. Thompson's dozens of media appearances.

His cases have been profiled in newspapers, magazines, TV, and radio programs worldwide. Please see the [representative cases page](#) to learn more about these victories.

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