



What Jurors Really Want

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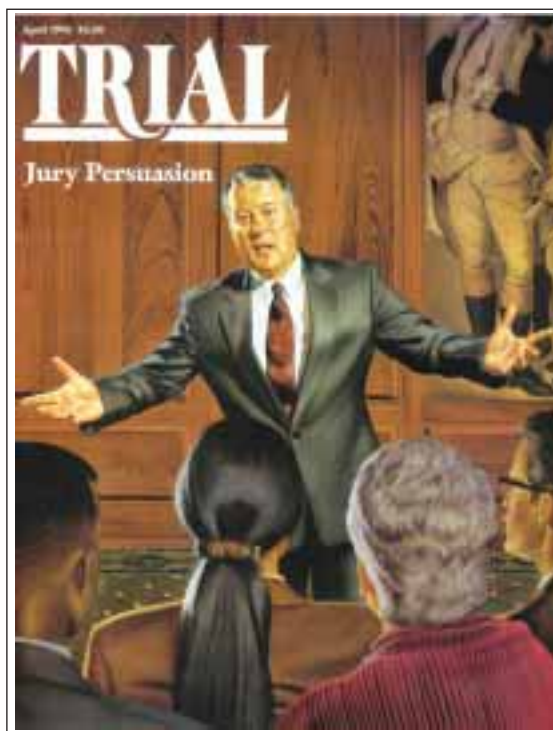
Litigators have their hands full. They are busy taking care of clients, opposing counsel, co-counsel, the judge and, sometimes, the media. It is easy to forget about the most important people in the courtroom because they are silent. Jurors can't make demands upon the lawyers.

They don't ask you to repeat yourself when they don't understand. They don't tell you when you are repeating yourself or have talked too long. They can't tell you when they disagree with what you are saying or need more information.

Whenever you try a case, don't assume you understand why you win or lose until you ask the jurors. The following list may seem familiar to you; you have heard it all before. But, habits die hard and since jurors are still reporting they see these things in the courtroom, the list is worth rereading.

Here is a summary of what jurors tell us:

Make voir dire a conversation not cross-examination. I have a right to my opinions and experiences. I have the right to disagree with your case. You should thank me if I express negative opinions during voir dire. That means I am giving you information you can use to invite me off the jury. If I express an attitude that shows I should not serve on this case, smile sweetly and



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thank me. If you bark at me, try to rehabilitate me or try to convince me that I am wrong, maybe I will let you win. But, the juror beside me who agrees with me is less likely to tell the truth. And you risk alienating others on the panel. This means you win the battle but lose the war.

When you ask questions that are not really questions, I know what you are doing. And I know what I need to do; just nod my head. For example, "will everyone agree to . . . ?" You are trying to make an argument into a question. When you do this, you're telling me you really don't want me to raise my hand and tell you what I think.

Listen—really listen—to me during voir dire. Make eye contact. Put down your notes. It is the only time you will hear me speak. Spend more time listening than talking. Concentrating on talking to a few people and ignoring me will make me think you don't value me or my opinion. Be very careful asking me to promise to do something at the end of the trial. I can't make a promise with no information; I feel like I am being set up.

Tell me the truth. Be sincere and honest. Don't talk down to me. Never posture or try to show off—I will assume that is to impress the other side's lawyers. If you have a bad fact, you should tell me before I hear it from the other side. Never tell me you are going to prove something you cannot deliver. Never overstate the facts. Don't try to play on my sympathy. That makes me feel like you are manipulating me.

Tell me a relevant, coherent, true story. Give me a coherent story I can understand. Remember, I need meaning more than a lot of unrelated facts. If you want me to understand a complex expert's testimony, make sure you have the witness explain to me what it means. Bottom line it. How does it fit with the rest of your story?

Respect me. Assume I am smart but ignorant about the facts or issues in your case. Everyone who knew something about the case was excused or struck during jury selection. I need you and your experts to teach me what I need to know and then persuade me to use it. Don't try to snow me and don't let your witnesses try to snow me. Give me language and ammunition I can use in deliberations.

Respect my time. Be organized. Don't keep me waiting for hours while you argue motions. Suggest the judge schedule time when the jury is not waiting. If you need half a day to do something, tell me I have the morning off. I know some of your cases are complex, but repetition is one of my biggest complaints. Do you really need four witnesses to tell me the same thing? Can you reduce the number of demonstrative exhibits from 95 to 35? Driving home a point is important, but if you insist on repetition ad nauseam at some point I will tune you out.

Never tell me you are going to prove something you cannot deliver. Never overstate the facts.



As Diane Wiley (National Jury Project) says, "**less is more.**" An attorney who presents everything including the kitchen sink in his or her opening is telling me he or she does not understand the case. Put yourself in my shoes. Organize and present the case the way I need it. Don't present information in a particular format just because that is the way you got it from your expert.

Talk to me in plain English. Attorneys have spent good money for a law degree and learned all kinds of words I have never heard before. I don't have a law degree. It sounds like "doublespeak" to me and I don't like it. Doublespeak is talk without meaning. Anyone speaking doublespeak is untrustworthy. For example, don't tell me nothing you say is evidence. Don't tell me you are giving me a road map. Just give me the map. If I hear doublespeak when I listen to a politician I lose interest in the politician and the message. You don't want me doing that to you.

Don't "act up" in the courtroom. You will lose points if you lose your temper, sound sarcastic, act impolitely or yell. If you are provoked, you will gain points by acting like a mature, in-control professional. As one juror said in an interview, "[we] disliked the way [the defense attorney] bullied some witnesses and lost his temper." In another trial a juror reported, "[plaintiff's attorney] was a little too dramatic. In his opening statement he screamed a lot. He needed to be a little more professional; he held things up, snickered and tore paper from his notebook. It was annoying, but we were onto him."

I am watching you and your interactions because I am often bored and it is something to do. And, I am genuinely curious about how lawyers really act. I watch how you treat your subordinates. I watch how you interact with your opponent. If I see you joking around with your opponent during a break, I will assume you do not take your case as seriously as you should. If I see you treating your paralegal badly, I assume you are a jerk. I may be watching you at lunch, in the parking lot, anywhere. This advice goes for your client, too.

Work hard making the case interesting to me. While I don't expect to be entertained, I do expect you to expend a lot of energy keeping my interest. Being on a jury could be one of the most interesting things I have ever done. Help me out. Give me reasons to listen to you. Keep your energy level up, even after lunch.

I expect you to have well-designed exhibits that are readable and understandable. I don't expect Star Wars, but 100 black and white blowups of tiny contract language are not going to cut it. And, practice using the exhibits. I will forgive a little disorder. But, not having your exhibits in order, and lots of fumbling and bumbling is going to irritate me. Remember the earlier point? Respect my time.

While I don't expect to be entertained, I do expect you to expend a lot of energy keeping my interest.

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I am more sophisticated in my expectations than I was five years ago. The baseline I bring to the courtroom has changed. Now I watch *Court TV* and *Matlock*. I expect you to be a good communicator with good presentation skills and with a good, direct style. I don't expect you to be Gerry Spence, but I have seen him. I have watched enough of the O. J. trial to have opinions about what should and should not go on in the courtroom.

Help me to maintain respect for our justice system. My experience in this case will affect the attitudes of future juries. When the case is over, I want to believe justice was done. I want to walk away with a sense of accomplishment. I will go home and tell my friends, family and coworkers about my experience. I want to be able to brag about the good job I did. I want to believe my time was well spent. I want to be able to say the lawyers did a good job. I want to believe the system works well.

The baseline I bring to the courtroom has changed.