

# JURY SELECTION – One Lawyer’s View

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- I. Introduction - Ups and downs of trial practice
  - A. Exhilarating, rewarding, exhausting.
  - B. Difficulty in taking cases to trial.
  - C. There's much subjectivity in trial practice. These are some of my personal beliefs.
  
- II. The selection process
  - A. Make sure you know the process to be used, as there are many variations in the jury selection process.
  - B. Juror questionnaires – find out when you can get them and get them as early as possible. Share with your client, and use their local knowledge.
  - C. Juror research and social media – ethical concerns?
  - D. Know who you want and don't want. I don't believe in too many absolutes, but some are obvious. Try to predict how certain jurors will react to your client and to the facts. I believe jurors want to take a position early on.
  - E. Be familiar with supposed jury types: the leader, the follower, the conservative, the liberal, the police officer, the school teacher, the insurance executive, the small business owner, etc.
  - F. Do no harm
    - 1. Tell jurors beyond the first group why you aren't talking to them.
    - 2. Don't embarrass or anger a juror. It can affect more than one juror.

3. Be wary of challenges for cause. Ask in advance how the judge wants to handle them. The standard is not easily met.
4. Warm them up – this is your only chance to interact with them.
  - a. Warm them up to you.
  - b. Warm them up to your situation.
  - c. Warm them up to your client.
  - d. Warm them up to your case (without arguing (much)). Jurors want to do the right thing. Couch your theory to right a wrong, or correct/prevent an injustice. All jurors come with biases, usually based on their life experiences. You want to compare your case with something they know of.
    - i. At least alert them to some key issues or things.
    - ii. Explain the process and the tenets of the law.
      1. Tell them about the burden of proof -- you want the jury to know what this is; jurors will make decision early.
      2. Tell them about expert witnesses.
      3. Tell them about returning a favorable verdict.
- G. Peremptory strikes – consider the order in which you make them. Your opponent may strike a juror you planned to strike, essentially giving you an extra strike.

### III. What to ask

- A. Prior jury service.
- B. Jurors know: parties—each other (small county); attorneys – firms; witnesses.
- C. Party to suit (friend or family).
- D. Similar situated friend or family.
- E. Occupation and spouses.
- F. Knowledge of peculiar issues.
- G. Anything else I should know?

- H. Try to be brief (**don't waste their time – ever**).
  - I. Try to at least talk to each juror once.
  - J. Engage a chatter who is helping your cause.
  - K. Avoid a negative person (avoid group questions once one is identified).
  - L. Be polite, respectful, “I appreciate you sharing that.”
  - M. Thank them up front.
- IV. Don't make promises you can't keep.