

TRIAL

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lation so jurors know what the plaintiff has to prove to win. Use your theme for each defendant.

- Tell what was supposed to happen. Describe the standard of care. Use visual support to reinforce the standard and show causal relationships. Use lay language; introduce only medical terms that are related to major events or key issues. Present these events and issues in chronological order.

- Tell the story of negligence. Don't

tell every detail—just the details that most strongly support the conclusion of negligence. Don't shy away from acknowledging unfavorable facts, but discuss them in a way that reduces or minimizes their significance. Be sure to repeat your major themes.

- Frame the main defense arguments. Show what is wrong with them, but be careful not to distort them. End with a visual that simplifies your counter-arguments so jurors have a good chance

of remembering them.

- Preview compensation issues. How you do this depends on the specifics of your case: Is life expectancy a critical point of dispute, or is home versus institutional care the main issue? Alert jurors to what they will have to decide, and preview the tools you will provide to help them with that decision.

- Summarize. Put your themes into the legal framework of medical negligence to help jurors understand what

Group dynamics in the jury box

JAINE FRASER

In any trial, only a few jurors actually drive the decision-making process. In mock trials and focus groups, the few jurors with strong personalities can influence more passive jurors, who may give in to the vocal minority quickly. Jury selection is not just about the number of plaintiff-friendly jurors on your panel.

On 12-member panels, you will often see jurors break into smaller groups that will stick together during trial. These groups will usually be determined by age, ethnicity, or education. Often, someone emerges as a leader from each group and may eventually represent it during the panel's deliberations.

To identify these groups during voir dire, observe hallway conversations, seating arrangements in the jury box, and those lunching together. It's important to consider this aspect of group dynamics when using your peremptory challenges.

A variety of factors can influence group dynamics among jurors, including whether some panelists have served on juries before or have expertise in the subject matter involved in the lawsuit. Other factors include age, occupation, education, and whether a person is likely to be a leader or a follower.

Jurors in their 20s and even early 30s may defer to those who are older. This doesn't mean they will change their opinions, but they might be more willing to go along with others in the group rather than hold out for what they believe. They may think the older jurors have more experi-

ence and know better what should be done.

Education also is important. Generally, the more education a juror has, the greater his or her influence on the group, partly because other jurors value education highly. As a practicing psychologist, I have worked with bright, successful people who did not have college degrees. They lived in fear that people would find this out and think less of them.

In a jury, people who hold certain occupations with vested authority or power—for example, teachers, executives, and lawyers—are also likely to carry more influence. The jury may also grant higher status to athletes, the wealthy, or relatives of high-profile people.

To identify possible leaders and followers among the jury pool, use questions during voir dire designed to reveal a juror's psychological personality type. For example, extroverted jurors, who are more likely to emerge as leaders, are inclined to answer questions at length and to raise their hands and express their opinions during voir dire. Their tendency is to speak more and listen less, and they will be more vocal in deliberations.

Introverts are more difficult to read. In voir dire, they are likely to give brief answers. They usually respond only to questions directed specifically to them. Also, they tend to reveal little or nothing of the thought processes that led them to those answers. Supplemental juror questionnaires can be useful with introverts; these

people are more likely to tell you their thoughts and feelings in a private setting than they are when speaking in front of a group.

Watch for other characteristics in jury selection. For instance, whether a juror is more of a "thinking type" or "feeling type" can help predict decision-making. Thinkers use logic and are rational in deciding both liability and damages. They are motivated by what's fair. Feelers are more empathetic, often inclined to compensate plaintiffs out of concern for their well-being. However, feelers also have a strong desire for harmony among people and may be more inclined to defer to others' opinions.

As you consider these specific characteristics of individual jurors, take a broad view of the panel you're assembling. Don't rely on only one or two demographic and personality traits in judging whether a juror will be receptive to your client's case. Look at all these characteristics in combination, and consider the configuration of the group as a whole, not only individual jurors.

Understanding jury psychology and group dynamics can be a great advantage. It will help you predict, as much as possible, how the 6 or 12 people on the jury will interact when it's time to make a decision as a group. ■

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