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Spotlight on Juror Questionnaires Part Two.

Voir Dire in the Age of Juror Questionnaires

Why use a juror questionnaires?

Experience has shown that more meaningful and more useful information is elicited from jurors when juror questionnaires are used. Jurors are more candid about themselves on paper. The questionnaires allow jurors time to provide thoughtful answers to questions, rather than offering the typical ‘minimal’ replies which are presented during oral voir dire. Voir dire is also expedited through the use of questionnaires.

Deciding when to use a questionnaire

Questionnaires should certainly be considered if the case is complex, lengthy, or requires inquiry into ‘sensitive’ topics.

Developing the questionnaire:

Length - the shortest length for a meaningful questionnaire is generally five to seven pages. Typical questionnaires are 10 - 15 pages.

Reading level - keep it simple – target the questionnaire for an eighth grade audience

Distinguish between questions that need a yes/no answer and questions that you would like to see receive narrative answers. Carefully structure questions accordingly.

Submitting the questionnaire to the Court:

Securing the cooperation of the judge and opposing counsel is generally an informal procedure. Everyone benefits from questionnaires, so there is little reason to object.

Logistics:

Volunteer to take charge.

Provide the court with four to five dozen black, medium point felt tips pens.

Pre-arrange duplication and delivery points.

Request that the Judge direct the Clerk to draw the sequence of the entire venire while the questionnaires are being duplicated. This allows counsel to arrange their copies of the questionnaire in the order jurors will be seated, thus avoiding delays associated with fumbling through stacks of jury questionnaires after each name is called. By knowing the order in advance, counsel can review carefully the first 15 or 20 and be prepared to begin follow-up questioning promptly.

What to do with them once you have the questionnaires in hand:

Form a team to review questionnaires aloud.

If possible, don't delegate review of questionnaires. If you will be conducting voir dire, be part of the review.

Develop a uniform scoring system. Remember this is an “on paper” rating and subject to significant modification depending upon responses to follow-up questions during oral voir dire. Remember to rate jurors along two dimensions:

1. Pro-plaintiff/pro-defense leanings
2. Persuader/participant/non-participant likelihood



Highlight in yellow those items that are important to glance at when you are interviewing the juror, but that don't necessarily require follow-up. Highlight in green the items that you want to address during oral voir dire.

Review your scoring of the first 24 jurors and run through a couple of "what if" scenarios regarding the first 12 challenges.

Review time usually takes roughly 5 minutes per questionnaire as you go through the first ten to fifteen. The pace picks up after that. In three hours, you should be able to easily review, score and plan follow-up for 40-50 jurors.

Review your scoring of the first 24 jurors and run through a couple of "what if" scenarios regarding the first 12 challenges.

You should have a good 'read' on the panelists and solid ideas about how to make intelligent use of your peremptory challenges

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Dr. Susan E. Jones is the founder of Jury Research Institute (JRI). JRI was established in 1985 and is one of the oldest and most respected trial consulting firms in the United States.

Dr. Jones earned her undergraduate degree at St. Lawrence University and her doctorate in psychology from the University of Alabama, one of the few institutions in the country that offers a concentration in clinical psychology and law.

For nearly 25 years, Dr. Jones has successfully assisted litigators in virtually every area of civil litigation. She has provided assistance on some of the most significant cases in the country, serving litigators from coast to coast.

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