

**8. Objective Eyes:  
Trial Consultants,  
Focus Groups,  
Juror Interviews**

# **“Objective Eyes: Trial Consultants, Focus Groups, Juror Interviews” WELCOME TO THE REVOLUTION**

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## **I. Intimacy breeds subjectivity.**

Responsible trial preparation turns you intimately familiar with your case. Intimate familiarity *gets you inside your case*. "Intimate" means inside.

By trial, you have spent months or years of waking (and some non-waking) hours inside the case. Inside. That is the ballmark of counsel's trial preparation.

Not getting inside your case is like not getting your backside inside your clothing. No one wants to see that backside in court. And if you think anyone does, you have an exaggerated idea of how good it is.

But being inside your case creates problems, especially in an era such as ours when many jurors feel differently about things (and you) than you do. Being inside your case, you tend to see the case only in subjective terms. "Subjective" – meaning "view from the inside" – is a limited, tilted, sometimes wishful view.

Subjectivity makes it impossible to see what outsiders – such as jurors – will see. When you are subjectively involved in a positive way, you unconsciously focus on positive qualities and miss negatives that outsiders notice at a glance. So, for example, a new love has no warts: "That's no wart; it's a beauty mark!" But to the outside observer – such as a juror – it's a wart.

"Oh, nonsense!" say those of us who think we are logical. "I can be subjective and objective at the same time!"

Well no, we cannot. Subjectivity and objectivity are polar opposites. The human mind cannot encompass both at the same time. They are mutually exclusive. No one can dance on the North Pole and the South Pole at the same time.

Every careful planner knows this limitation of the human mind and takes it into account. When you do not, brilliance and hard work can be wasted. As trial consultants – whose business it is to watch hundreds of trials – we see this over and over. So we find ways to help you step

out of your subjective cocoon to see what is "really" there when viewed by the cold, hard – objective – glare of the jury.

## **II. What You Know Can *Really* Hurt You**

Atlanta's Don C. Keenan points out that one of the most difficult things for counsel is "Knowing too much." He means that it is difficult for someone (counsel) who knows everything about a topic (such as the trial) to convey it clearly to someone (such as a juror) who knows nothing about it. This problem extends from the most complicated technical issues to the use of pronouns (John was driving east; Joe was driving west. Suddenly he came into the oncoming lane and hit him.")

This is one reason attorneys are often surprised to learn that the jury did not understand some important parts of the case. "We talked about that!" But in ways only the talker understood.

When jurors do not clearly understand you and your witnesses, they misinterpret or they stop listening. Either can be case dispositive. In bad ways.

Trial consultants exist in part to help you overcome this problem.

## **III. Jurors: THE BOTTOMLESS CHASM**

Jurors are just like people. Now, there's nothing wrong with people, except:

1. Every single one is *different from all the others*.
2. Every person at any given moment is different from the way they are at any other moment. We all change due to mood, new information, situation, time passing, or no reason at all. These changes can change and even reverse how any juror might feel about your case. A juror who might like your case in the morning might hate it in the afternoon.
3. Every combination of you and any other individual is different from the combinations of you and every other individual.
4. Once you put this volatile bundle of changing people into a group of six or eight or twelve, the complications and variations and changes in time exponentially increase, and the exponent is the number of jurors.

If six or eight or twelve reliable computers are programmed with logic and to respond to input by processing the input through its computer logic, then all of them would decide your case the same way. Reliable computers do not change from moment to moment, each interacts with you in identical ways, and all are unaffected by other reliable computers. Working with such

computers, you have a single target: having your case fit the programmed logic of the eight computers.

But what about people? Oh, people! People are the opposite. An eight-person jury has eight *different* heads. Each head shifts at unpredictable times. All eight are banging into each other however they want. What they are amenable to or hostile to, persuaded by or alienated by, shifts minute by minute, hour by hour, day by day. Herding them all to move in the same direction is like moving a graveyard. People and parts of people keep falling out of the line you want them in. They drift off in their own ways.

Ultimately, that drifting determines the outcome of your case.

Here's how hard it is for you to gauge what those jurors are going to do: America's highest-paid marketers become smash successes when they manage to persuade even a few percent of the public. Ten percent is considered a major win! Compare that to the 90 or 100% you need to win. Marketers can focus solely on people likely to buy their product. You have to persuade whatever variegated *mélange* the jury clerk drags in.

Ever watch the jury clerk as she leads jurors into the courtroom? That little grin in the corner of her mouth? Cackling with delight at what she's bringing in for you to deal with.

So how do you reach that shifting, changing target well enough to win a case? Especially in our age of increasing tort-"reform" attitudes that have poisoned so large a segment of the jury pool? Jury consultants who work mainly with plaintiffs<sup>1</sup> ask themselves that question a hundred times a day. We do focus groups and mock trials and post-trial juror interviews and a myriad of other kinds of research – not to predict who's going to win the next case, *but to find out how to help it be you who wins.*

We are charged with the task of maximizing what can be known about the potential relationship between your case and a group of as yet unknown jurors.

Trial consultants work on cases involving hundreds of venire persons. We talk to many hundreds of jurors and much trial jurors every year. Our backgrounds – whether in audience specialization fields such as theater, or human behavior fields such as psychology or social work

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<sup>1</sup> In personal injury cases, most consultants work both sides of the aisle. A very few specialize in working for plaintiffs. For many reasons, *it is emphatically suggested that you select a trial consultant who works mainly with your side.* The National Jury Project remains one of the premiere firms of those of us who work mainly with plaintiffs.

or anthropology, or law and communication, or mass persuasion fields such as marketing and political consulting – enable us to help you bridge the gap between jurors and your case.

Not all, but the best trial consultants help you bridge the gap between your client's needs and the jurors' *personal needs*. That does not mean a juror's need for justice or fair play, needs that are relatively weak and can barely be called needs. It means a juror's *deeper* needs that actually drive decision making.

Ultimately, this alone determines the outcome of trial.

## **TWO TOOLS**

Two of our most powerful tools are focus groups (or mock trials) and post-trial juror interviews. Together they comprise the *before and after* of the trade. By the informed design and execution of focus groups, trial consultants learn how groups of people similar to the jury pool will interact with the issues of your case. We learn what the jurors will have trouble with, what they won't understand well, what will and will not change their minds, what you must show and tell them (and how to tell them) to get them to go your way.

## **FOCUS GROUPS (MOCK TRIALS)**

You can do your own focus groups on smaller cases.<sup>2</sup> It takes experience with analyzing them to know what to do with the information. But even when you are just starting, you'll still gain immeasurably from them. Just be careful not to make conclusions on too small a sampling of jurors or attitudes ("the two old guys didn't like our case so we better keep all old guys off the jury!").

Below you will find two questionnaires we commonly use in focus groups. The first gathers information from each focus group participant, so you know their background, attitudes, and life experiences. The second questionnaire is a deliberation form we give jurors. You can adapt both to your own focus groups.

You can learn to do focus groups on your own for smaller cases, and bring in trial consultants on larger cases to get a lot more from the focus group. Many attorneys and other

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<sup>2</sup> See the book *How To Do Your Own Focus Groups* by David Ball, and the video *Do Your Own Focus Groups*, National Institute for Trial Advocacy.

trial experts will tell you that when you have the resources to do focus groups, it borders on malpractice to go to trial without having done some.

Focus groups can be conducted in a number of formats with any number of participants and in different combinations. Deliberating groups, moderated discussion groups, and a variety of specialized variations can help you learn how jurors will relate to and ultimately discuss and decide every case issue. Once you have seen that, you – or, ideally, you and the trial consultant – can develop the best strategy to leverage your case's strengths and deal with its weaknesses.

## **JUROR INTERVIEWS**

No one can tell us as much about jurors as jurors – when we know the questions to ask and how to ask them.

Lawyers who do not *regularly* and thoroughly interview jurors after trial never learn what makes jurors tick. Instead, these lawyers spend their careers gathering anecdotal and off-the-cuff information, and on that basis believing hunches based on nothing but bits and pieces of information. Such attorneys may wonder why they stopped getting better years earlier.

You cannot learn about jurors based only on their verdicts, because guessing and supposing do not tell you why a jury decided the way it did. You need to interview jurors – at least where it is legal to do so.<sup>3</sup>

It can be painful to interview jurors when you lose. But human beings learn the most through failure. In 19<sup>th</sup> century America, bridge engineers learned little when a bridge stayed up.<sup>4</sup> They learned the most when a bridge collapsed (unless they were on the bridge). After a bridge disaster, every good engineer worth his salt rushed to the site to find out what went wrong – to learn how to make a better bridge next time. If they had not done that, driving over a bridge today would be as risky as betting that an attorney who has not talked to jurors after losing will win his or her next jury trial.

Trial consultants can teach you how your office can do its own post-trial juror interviews. In cases of greater significance, it always pays to have the skilled consultant do the interviews for you.

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<sup>3</sup> If in doubt, check with the judge. But check your local statutes and rules *before* asking the judge. You don't want Judge Ego barring you from talking to jurors on the basis of his or her whim.

<sup>4</sup> *To Engineer is Human*. Henry Petroski. St. Martin's Press, New York. 1985.

Please see the last section of this chapter for guidance how to initiate and conduct your own post-trial juror interviews. You will learn more when trial consultants do them for you, but you will still learn a lot when you have someone in your office do them. The only one in your office who should never do them is you: the attorney who did the trial. When you interview a juror you are wasting your time and letting yourself be misled.

## **CASE ANALYSIS**

Trial consultants identify the common characteristics, experiences, beliefs, backgrounds, and lifestyles that will influence jurors' perceptions of the case. From this, we learn which aspects of the case interact with those perceptions – for better or worse. We also learn what's important, what evidence matters, what does not, what else jurors may need to know about the case, and how jurors in deliberations are likely to understand and use the evidence.

Most importantly, *we learn what drives decision-making.*

## **TRIAL STRATEGY**

The culmination of a good consultant's research and analysis is *trial strategy*. Good trial consultants work closely with lawyers to develop the big picture: the case themes. This guides and shapes every aspect of communication: jury selection, opening, witnesses, witness examinations, trial exhibits, and closing arguments. The best trial strategy comes out of focus groups or mock trials, from jurors who have served on earlier similar cases, and from the consultant's own experience with other cases of this kind. This all gives good trial consultants a perspective that helps us tell lawyers how to relate their case story in a way that directly connects to jurors' lives and experiences, and to the hopes and fears of the community.

## **JURY SELECTION**

Tort "reform" has permeated every aspect of society. The tort-"reform" message is based on false but believed information aimed at shaping juror beliefs and perceptions about every case and every plaintiff's lawyer. The tort-"reform" message has negatively influenced public perceptions of lawyers, judges, lawsuits, and verdicts to the extent that *our entire justice system is suspect*. In this perilous climate, the strategy for jury selection has changed enormously from

the wisdom of even two or three years ago. Doing what worked a dozen months ago can today cost you the case.

Trial consultants help lawyers hone their jury selection skills in a tort "reform" climate. They help lawyers work to improve jury selection conditions, and use all of the tools available. They help lawyers develop a strategy to probe biases and attitudes relevant to the case. They guide lawyers in evaluating juror responses. For smaller cases, the better trial consultants will teach you to learn how to do this on your own without falling into the myriad of traps for the unsuspecting.

## **OPENING**

Trial consultants work on every aspect of courtroom communication, including openings. Openings are the frame in which jurors will place all the evidence to come. A good opening builds a lawyer's credibility with jurors. A *great* opening builds credibility and tells the story in ways that make jurors *want* to see you win.

## **WITNESSES**

Trial consultants help you extend your case themes through witness testimony. They help lawyers with witnesses and witness order, developing testimony to advance your client's story and undermine the defense. Many trial consultants also work with witnesses to prepare them for their testimony.

## **CLOSING**

Closing arguments give jurors the tools they need to go into deliberations and win the case for you. Trial consultants help lawyers bring their themes home through closing, refresh the recall of the evidence that supports the theme, and break down the law into easy to understand, manageable, and *usable* pieces.

## **POST-TRIAL INTERVIEWS**

Jurors have valuable information for all lawyers after the trial, win or lose. Often, jurors are hesitant to give lawyers the unvarnished truth, regardless of whether they decided the case in his or her client's favor. Trial consultants bring experience and objectivity to the interviews that

allows jurors to speak frankly and candidly about their experience, deliberations and decision-making. Please see the next section of this chapter for guidance in how to conduct your own post-trial interviews.

### **The Post-Trial Interview: How to Talk to Jurors (and What to Say)**

It's a tricky business, calling jurors after a trial. It always proves incredibly useful to hear jurors talk about a case, their opinions and interpretations, the viewpoints and attitudes of their fellow jurors, and their experiences in the courtroom in general. But it can also be a bit uncomfortable if you're interviewing jurors for the first time. And the most daunting task is your first task – making the calls.

In this day and age of telemarketers and caller ID, getting a stranger to answer the phone, much less talk to you, isn't as simple as it once was. But if you have a game plan and are fearless – or at least not afraid of a little rejection – dialing a number isn't so bad.

It may seem a little odd to devote so much attention to this seemingly trivial aspect of the post-trial interview, but the key element to a successful interview is setting the proper tone right off the bat – one that's comfortable, polite, respectful, trusting, and not in the least bit condescending. So let me share what I've found works for me.

First, make sure your number can be identified (if you usually block your number from being seen on caller ID screens, ask your phone company how to unblock specific calls). Otherwise some jurors with caller ID will never pick up. If you'd rather jurors not know that you are calling from a law firm (and for several reasons, you might not want them to know at this point), use your cell phone or home phone instead.

The better mood your jurors are in when you call, the more likely they'll be receptive to participating in an interview, or at least listening to your reason for calling them. So try to avoid interrupting them during family time or after a long day of work. Put yourself in the jurors' shoes: How do you feel when the phone rings during dinner or as soon as you walk through the door?

The best time to call jurors is during the weekday, usually between the hours of 10am and 4pm. You may be able to catch jurors who don't work or who work a second or third shift. Or you'll run across jurors who work from home or are in college and have a break in their class schedules. You may even find a juror taking time off from work for whatever reason.

When you can't find the juror during the weekday, you may stumble upon a spouse or roommate who can give you a better idea of what time to call (or, occasionally, provide you with the juror's work number). At times, I've found the response I get from a significant other or housemate is an indicator of how I'll fare with the juror. If nothing else, you've now been given permission to call back at a specific time (there's nothing like passing the buck by starting the conversation off with, "Your wife said this was the best time to reach you."). Or you may be told they don't take unsolicited calls, so don't call back. And don't. You can try to contact the juror directly by sending a letter instead. But it won't do you any good to anger anyone in that juror's house by defying an order.

If you find yourself unable to track down jurors during the weekday hours, don't leave a message (yet). Move to weekends, starting Saturdays after 11 am and Sundays after 1pm (so as not to offend church-goers). The cut-off time for weekend calls seems to be around 5pm. I try to also be mindful of what's going on that weekend – for example, never call jurors on Super Bowl Sunday. If jurors live in a sports-crazed community, check *TV Guide* for game times before dialing numbers.

If all else fails, resort to weekday evening hours, except Friday evenings, which are bad for many reasons. Don't call during dinner (6 pm to 7:30 pm), but you also don't want to call too late, particularly when there are young children in the household. You're likely to find jurors most exhausted, busy, and/or testy during the weekday evening hours, which is why it's best to avoid those times (unless you've gotten the permission, as described above).

What do you do if you've tried all these times and still can't track down a juror? Then there's a good possibility the juror is screening calls and is waiting for you to identify yourself before picking up the phone. If you suspect this to be the case, then leave a message, giving the juror your number, the reason you're calling, and asking the juror to call you back – but also telling the juror you'll try to call back as well. Usually jurors won't call you, but they may pick up next time they see your number on their caller ID, if only to tell you that they are not interested, so stop calling.

Once you get jurors on the phone, tell them as much as you can as quickly as you can to avoid the hang-up. Have a script prepared to ensure that you tell them who you are and why you're calling right up front. You'll know within the first few seconds whether they are willing

to listen to what you have to say, at which point you can slow down and talk at a more normal pace. Don't be afraid of rejection and be very reluctant to give up.

That said, don't badger or bully anyone into an interview. Remain respectful and polite. If jurors hang up while you're in mid-sentence, call back and if they pick up, innocently tell them you weren't sure if you got accidentally disconnected or if they meant to hang up on you. If they take the time to respond that they indeed intended to hang up on you, ask "So, you wouldn't be interested at all in talking about your experiences as a juror, even just generally?" Your objective is to gently coax without being pushy or obnoxious.

Some jurors won't want to talk at all. Ask them if they'd be comfortable just chatting generally about the trial and their experiences serving as a juror as opposed to specifics about this case or the deliberations. Jurors often say they don't want to discuss deliberations, but usually will if you ease them into it and if they trust you by the time that topic comes around. The "general" approach might work on some and even lead to their being more at ease opening up and describing far more than they thought they would be willing to disclose.

It never hurts to test the waters by trying to persuade. But don't try tricking jurors into telling what they didn't want to share, and don't be rude or forceful. If they decide to continue with the interview, assure them that they can refuse to answer any question that makes them uncomfortable. Respect their decisions to proceed or not proceed with any part of the interview.

If they turn you down, give them the option to call you if they change their minds. You'll want to guarantee confidentiality from the very beginning – *and maintain that confidentiality*. Never lie to or mislead jurors. If you tell them their names will never be associated with the comments they make, then find another way to identify them (their juror numbers during trial usually will suffice). It's also a good practice not to reveal to any juror what other jurors have told you. More on that later.

Once jurors have assented to being interviewed, let them pick the day and time that works best for them. Don't assume or suggest that you're expecting to conduct the interview right then. Some might say, "I'm free now," so certainly be prepared to proceed with the interview, but let them make that offer. You want jurors to feel in control at all times.

Give jurors an idea up front how long the interview is likely to last. An hour is usually an acceptable amount of time, so when you design your interview script, try to keep the number of questions limited to an hour's length. But I also "warn" jurors that some interviews end up taking

two to three hours because the juror finds she has a lot to say or it's the first time she's been given an opportunity to discuss the case to someone willing to listen and not pass judgment. People will laugh in disbelief that an interview might last that long but then turn out to be among the chattiest. At the end of the interviews, jurors are often amazed that they talked so long while time seemed to fly by.

If you can, offer the option of a face-to-face interview instead of by phone. Often, a face-to-face interview isn't possible because you live in different cities. But if you are in the same town, you might offer to meet the person in a public place. (If you don't want to disclose which side you are on at the beginning of the interview and happened to be in the courtroom during the trial, obviously an in-person interview isn't a good idea.) Most people won't choose face-to-face meetings, but it's an additional step to show you are on the up-and-up and have nothing to hide. For the juror who prefers meeting in person, find a safe, public place where people are around but can't listen to or disturb your private conversation.

Once you've settled on a time and place, reassure jurors that if something comes up either before or during your scheduled interview, they should most definitely let you know and you'll be happy to call them back at a more convenient time. If you're agreeable, flexible, and open to working on their time, the more at ease they'll feel and the more forthcoming they'll be in conversation. A juror who perceives that he's being pushed, hurried or forced into anything will likely give you what you deserve – a short, uninformative interview.

If possible, don't reveal to jurors on whose behalf you're calling. Let them know that you'll disclose that information at the end of the interview and tell them why that's necessary – specifically, you don't want their answers to be influenced by knowing which side is requesting the interview. Knowing which side it is might not affect their responses, but it might. That's just human nature, and almost all jurors understand that reasoning.

There will be times where you will have to identify on whose behalf you're calling before the interview starts, perhaps because your name or voice is familiar to the jurors from trial or your law firm shows up on the jurors' caller IDs. If you were on the losing side or if any members of your team weren't particularly popular, let jurors know why you are calling. The purpose of your interview is not (and should not be) to question the jurors' verdict or their decision-making abilities. Jurors don't appreciate being second-guessed, nor do they want to hear that their verdict (the verdict that they "wasted" all their time and missed a paycheck to

reach) might be overturned. So if you're fishing around for juror wrongdoing or error in hopes of winning on appeal, jurors will likely become suspicious and stonewall you.

What jurors do like to know is that their opinion is valued and that what they tell you might make a difference next time around or in how the system (and their tax dollars) work. I tell jurors early that I'm calling to find out what they thought about this particular case and how they think things can be improved in the future, whether it be with the lawyers and their style or demeanor, the lawsuits that are brought to court, the presentation of arguments, evidence or witnesses, the jurors' roles and needs during the process, or the legal system itself.

If a lawyer had an annoying habit or did (or said) something that irritated jurors, you want to know. If the case was made too complicated by the attorneys or they failed to explain key concepts, you want to know. If jurors were spoken to in a condescending manner or weren't shown or told things they felt were important to make a decision, you also want to find that out to help better communicate next time around. You don't have to ask jurors specifically about these types of things. If you've set the proper tone, they'll be happy to share these annoyances with you with little encouragement on your part. For example, a simple question like, "What did you think of the lawyers on both sides?" will elicit a great deal of valuable information without directing jurors down a certain path.

Again, jurors may not have liked your side – or lawyers in general – so if they believe that you are picking their brains in order to find out how to win your next case, they may not be very cooperative. What you want to convey to them is that you're hoping to hear what the weaknesses (or strengths) were in this case through their eyes and ears and what can be done (by either side and the legal profession in general) next time around to present a better case to jurors. Assure them that none of the comments they make will offend the attorneys but rather will be taken as constructive criticism and things lawyers need to know. As I often explain to jurors, attorneys sometimes get too embroiled in their cases so that they miss some of what's going on around them or don't realize that everyone isn't starting the case from the same perspective or with the same knowledge base. Parts of the trial may have been effective, while other aspects might not have been. What you are seeking is a different perspective from someone who has now been in the courtroom and participated in the process, perhaps for the first time.

Often jurors will gripe about aspects of the system over which you have no control and perhaps don't particularly care to hear (for instance, how much they had to pay for parking or

how long of a commute they had to and from the courthouse). Honor what they have to say and take the time to listen to them, even if it helps you none. Jurors will have more to say that you *do* want to know if they feel respected and heard rather than used or exploited.

The interview is not the time for you to answer jurors' questions. You want them to do all the talking while you take down what they say. Let jurors know before the interviews start that they can ask any question they want at the end. Be sure they know that there might be some things you can't answer because you don't know or you can't answer because of attorney-client privilege, but anything you can answer, you will. And once you get to the end of the interview, give them the opportunity you promised by saying, "Okay, now tables have turned and here's your chance – do you have any questions for me that hopefully I'll be able to answer?" Some jurors will take you up on that offer, while others will be ready to get off the phone. Either way, they've given you their time, so be respectfully and allow them the chance to ask their questions. If you can't provide a sufficient response, explain why rather than merely stating, "I can't answer that."

## **THE INTERVIEW**

So, now it's time to begin the interview. What should you ask? A good rule of thumb is to start generally, then move to more specifics. My first question is typically, "What was this case about?"

Some jurors will say that they don't understand what I'm asking them, and it's often because they are worried that they won't give me the answer they think I'm hoping to get. I tell them it's whatever that question means to them, however they want to answer that. It's important for jurors to know that there are no right or wrong answers. This isn't a test to see what or how much they recall. If they can't remember something, it must not have been important to them or perhaps it wasn't communicated effectively enough to make it more important to them. These are useful things we need and want to know. If they still struggle, I'll often follow up by asking what they remember most about the trial or what was important to them. This usually sparks some response.

After they've answered that first question, use positive reinforcement to show them that what they've conveyed is exactly what you wanted to hear. This usually puts them more at ease and gives them confidence in answering your upcoming questions.

Always use open-ended questions. Rather than asking, "Did you think the truck driver was a good witness?" ask, "What did you think about the truck driver?"

In fact, it's better to start by asking, "Which witnesses had the most effect on you?" When they answer, follow up with, "Tell me about that." Jurors will usually proceed to talk about witnesses they viewed both favorably and unfavorably. If they fail to mention certain witnesses, bring them up yourself by inquiring, "Tell me what you thought of the accident reconstructionist."

You may also want to ask about audio/visual displays. For example, if you provided jurors with an animation of a car wreck, ask jurors what they thought of that. Often you'll hear jurors complain about sound or lighting or how they couldn't really see the television screen. Acknowledge these problems (it might even help you next time you want to show a video to a jury), but also ask what impact, if any, the animation had in their decision-making process. You'll want to ask throughout how jurors responded to different elements of the trial – whether it be opening statements, particular witnesses, certain exhibits, key players, family members in the courtroom, or closing arguments. As you progress through the interview, your open-ended questions should become more specific, ultimately leading into deliberations.

Deliberations are an area where you should tread lightly. Thus it's one of the last series of questions you should ask. Jurors often treat that aspect of the trial as sacred ground. They might not want to reveal who said what or how they ultimately made their decision, perhaps out of respect for the jury's privacy or perhaps in fear that they (or you) will realize they did something wrong. Hopefully, at this point in the interview, you've established some trust. Without delving too far into personal conversations, ask generally, "What were the important discussions during deliberations?" This may get the ball rolling for some jurors. Others may need a little more encouragement. Questions that I've found jurors will tolerate include, "What was said in deliberations that seemed to move people one way or the other?" "What were you worried about in making your decision?" or "What did others seem to be worried about?"

Occasionally, a juror will tell you, "I was worried about picking my children up from daycare on time." You may want to follow that up with, "How did that affect you during the deliberations?" or "What else concerned you?" Another good question to ask jurors is how deliberations would have been different if they had not been there. There'll be a few jurors who

remark that there would have been no change at all, but others will often give you a better understanding of what went on in that jury room based on how they choose to respond.

Until jurors settle into the interview, they may be very brief and succinct in their responses. Or perhaps you've stumbled upon a juror who's not particularly chatty in any context. Much of what you want to hear won't be delivered in two or three sentences. To forewarn jurors that I'm going to be digging a little deeper, I inform them during my opening script that I'll often use the phrase "tell me more about that." If you alert them early that they'll be hearing that a lot from you, then they won't get the impression that you find their particular answers inadequate or incomplete. As I explain it, I might know (or think I know) or understand where they are going with something, but sometimes my assumptions are wrong. Or I'll realize later in the interview that something they said early on means something completely different than I initially thought. So just to make sure I don't misunderstand or misinterpret anything, I'm going to be asking them to "tell me more about that" or explain further. Some jurors will catch on and provide supplemental information or clarifications on their own, if only to avoid the much anticipated "tell me more about that."

Let jurors go wherever they want in their discussions. You'll find some jurors who are particularly long-winded and will talk your ear off but manage to not answer your question. Allow them to say their peace, and if need be, go back and re-ask the question or ask it in a different way. But never interrupt or tell them they've gone off-track. And don't try to lead them into a particular answer. Just accept that they give you. *Your goal is to make them feel comfortable to open up throughout the interview.* To that end, never judge or correct them, even if it's apparent that they either weren't listening during trial or didn't understand what was presented to them.

Conversely, don't be too eager to move on to your next question once the juror stops talking. As the Depeche Mode song goes, "Enjoy the silence." You might be surprised what may come of it. Jurors will often jump into a five-second silence.

Inform jurors beforehand that you'll be typing or writing what they say, so if there are pauses or just clicking noises on your end, that's why. Even though you've said this, you'll often find that lulls in conversation can make numerous jurors nervous or uncomfortable. They will thus feel the need to fill the gaps with chatter. These unsolicited remarks often can be more

revealing and insightful than any of their initial responses, so don't be afraid to pause (if only because it provides you a wonderful opportunity to catch up on your dictation).

There also have been several times when I thought a juror had finished answering a question, but as it turns out he was just a slow thinker or talker or someone who liked to collect his thoughts or weigh every word before speaking. In cases like this, you might miss something important if you too quickly move on to the next topic and inadvertently cut someone off before they have finished a thought.

Never volunteer information while you are interviewing jurors. Even if you were at the trial or have talked to other jurors and know something about the case, never reveal what you know. Treat every interview as if it was your first and you knew nothing. Again, you're trying to get their perspective, not an accurate account of the events that took place in the courtroom.

Along those lines, never disclose what other jurors have told you or to which jurors you have spoken. Assure each juror that your conversation will remain confidential and no other jurors will find out who said what or what even was said.

Some jurors might ask if you've been in touch with other jurors. I reiterate – never lie or mislead. Jurors may still be in touch with each other and can easily find out if you are not telling the truth. This can be particularly damaging to you if one juror talks to another before your scheduled interview appointment and finds out you were dishonest. It's best to simply say that you've been able to get hold of some jurors or, if this person is the first you've called, that you are just starting the process. Answer them honestly but in general terms so as not to breach confidentiality in any way. If you slip and tell one juror anything about having called or talked to a specific juror or reveal what someone else had mentioned in their interview ("Oh yeah, I remember someone telling me about that"), you've lost credibility with this juror and perhaps others you have yet to interview. So be consistent and treat every interview as a clean slate. And if jurors happen to mention that they are still in contact with each other, ask that they not discuss the interviews until after they are completed. You don't want jurors to coordinate their responses. You also don't want to fall into the trap of breaching confidentiality because everyone seems comfortable sharing. If jurors want to talk to each other afterwards about what they told you, that's up to them. Keep to your mantra – you know nothing.

Before wrapping up your interview, be sure to ask one final question – "What haven't I asked that would be important for me to know?" Some jurors will say, "Gosh, I think you've

asked everything," while others will tell you something you never expected or would have known to ask. For those who fall in the latter category, this can be an important question. So don't forget to ask it.

Once jurors are finished giving you their opinions, then ask if they have any questions for you. If you didn't disclose at the beginning on the interview on whose behalf you are calling, this will likely be the first question posed to you. Be candid with them, even if the interview made it apparent that they hated your side. Often, once you reveal who is requesting the interviews, you'll get bonus remarks about counsel (on either side) or your case, so don't think you're done scribbling down what they have to say yet. The interview should end when jurors are ready to stop talking, not when you're ready to stop listening. And even if you hated everything they had to tell you or hated that juror in particular, always express your gratitude for their time and participation. Because even if you detested what was said, there's an excellent chance you learned a whole lot.

## SAMPLE QUESTION SEQUENCE

Here is a sample of a series of questions for a good post-trial juror interview.

1. What was this case about?
2. What do you remember most? What was important to you? Tell me about that.
3. Tell me about how you responded to the case as it went on.
4. Talk to me about the plaintiff's opening.
5. Talk to me about the defense opening.
6. Which witnesses had the most effect on you?
7. Which witnesses had the most effect on other jurors?

*Then ask about the witnesses they didn't bring up themselves (using physical descriptions or something notable about each witness to help trigger jurors' memories):*

8. What did you think of \_\_\_\_\_?
9. What exhibits were important to you? Tell me about that.
10. What were the important discussions during deliberations?
11. What was said in deliberations that seemed to move people one way or the other?
12. What were you worried about in making your decision?
13. What did others seem to be worried about?
14. How would deliberations have been different if you had not been there?
15. What do you think there is about you – the kind of person you are, your background, your life experience, anything – that helped you as a juror in this case?
16. Now let's flip it. What do you think there is about you that made it a little *harder* for you to be a juror and make decisions in this case?
17. Tell me what you thought about the lawyers on both sides.
18. What haven't I asked that would be important for me to know?
19. Those are all the questions I have for you so now let me ask if you have any questions for me.

**Thank you so much for taking the time to talk to me. It's been very helpful.**

**Sample focus group questionnaires:**

This first form is given to focus jurors to fill out when they arrive, before hearing any of the case. The purpose is to learn about each juror in order to relate their attitudes and background to the way they respond to the case.

**PARTICIPANT DATA**

It is important for you to answer every question. If you leave anything blank, we will have to ask you to fill it in.

The purpose of this questionnaire is to show how much of a cross-section of the community we have here today, in terms of demographics, backgrounds, experiences, and other factors. Your answers are confidential – no one outside this immediate project will see any of this information. **No one will ever match your number to your name.**

**PLEASE DO NOT WRITE ON THE BACK OF ANY FORM.**

**PLEASE PRINT CLEARLY:**

\_\_\_ Male \_\_\_ Female

Age \_\_\_\_\_

Where do you live (name of city or town)? \_\_\_\_\_

Employer: \_\_\_\_\_ How long? \_\_\_\_\_ years

What kind of work do you do? \_\_\_\_\_

Please list every other job you have held:

\_\_\_\_\_  
\_\_\_\_\_

If retired: Who was your last employer? \_\_\_\_\_

What kind of work did you? \_\_\_\_\_

Do you now or have you ever supervised other employees? \_\_\_ yes \_\_\_ no

How many? \_\_\_\_\_

**EDUCATION:** (Please check *highest grade* attended.)

\_\_\_\_\_ 12<sup>th</sup> grade or less (no high school diploma):

What was the last grade you completed? \_\_\_\_\_

\_\_\_\_\_ 12<sup>th</sup> grade (high school diploma or GED)

\_\_\_\_\_ Some college

\_\_\_\_\_ Vocational school, or AA degree

\_\_\_\_\_ Four-year college degree(s)

\_\_\_\_\_ More than four years of college

Vocational field(s) of study/degree(s): \_\_\_\_\_  
College degree(s): \_\_\_\_\_  
Major(s): \_\_\_\_\_

**MILITARY SERVICE:**

Branch \_\_\_\_\_ Rank \_\_\_\_\_

Dates: from \_\_\_\_\_ to \_\_\_\_\_

Principal military duties: \_\_\_\_\_

Have you or anyone close to you taken any classes, had any training in, or worked in any of the following fields? (Check ALL that apply)

<b>Field</b>	<b>Relationship</b> (self, sister, husband, cousin, etc.)
<input type="checkbox"/> Law	_____
<input type="checkbox"/> Law enforcement	_____
<input type="checkbox"/> Health Care	_____
<input type="checkbox"/> Medicine	_____

Please describe: \_\_\_\_\_

Ethnic background (*It is essential for you to answer this question so that we see whether we have a fair cross section of the community.*):

- African-American (Black)
- Asian American
- Caucasian (White)
- Hispanic
- Native American (American Indian)
- Other (please specify): \_\_\_\_\_

Marital Status (check all that apply):

- Single and never married
- Currently married
- Separated (legally or not)
- Divorced
- Widow/widower
- Living with significant other
- Other (specify): \_\_\_\_\_

Occupation of spouse or significant other: \_\_\_\_\_

Annual *household* income (check one):

- 0 - \$15,000
- \$15,001 - \$30,000
- \$30,001 - \$50,000
- \$50,001 - \$70,000
- \$70,001 - \$90,000
- Over \$90,000

Age of each son: \_\_\_\_\_

Age of each daughter: \_\_\_\_\_

POLITICAL PARTY

- Democrat
- Republican
- Independent
- Other (please specify) \_\_\_\_\_
- None

Have you ever *sued* anyone?

- Yes
- No

Have you ever *been sued*?

- Yes
- No

Has anyone close to you ever sued anyone?

- Yes
- No

Has anyone close to you ever been sued?

- Yes
- No

Do you work in a field in which lawsuits often happen?

- Yes
- No

Some people have religious or other beliefs that it's wrong to sue and that people should work out other ways to settle their differences. Other people feel differently. How do you feel?

- It is wrong to sue
- It is not wrong to sue

What are the two most important things you learned from your parents?

1. \_\_\_\_\_

2. \_\_\_\_\_

What are the two most important things to teach children?

1. \_\_\_\_\_

2. \_\_\_\_\_

Do you or anyone close to you have a physical or mental disability or handicap?

Yes  No

If yes, please describe: \_\_\_\_\_

Have you ever known anyone who had permanent paralysis over some or all of their body?

Yes  No

If yes, please describe: \_\_\_\_\_

Have you or anyone close to you ever provided full-time, long-term care for anyone with a sickness, disability or handicap?

Yes  No

If yes, please describe: \_\_\_\_\_

What level of mechanical knowledge (cars, trucks, household repairs, etc.) do you have?

None

Very little

A moderate amount

A lot

Professional level

Do you regularly drive or have you ever driven a company vehicle (car, van, truck, etc.) for your work?

Yes

No

How many people do you know personally who regularly drive or have driven a company vehicle (car, van, truck, etc.) for their work?

0

1 – 3

4 – 7

8 or more

Do you now own or have you ever owned a business where your employees drive company vehicles (car, van, truck, etc.)?

Yes

No

Do you have or have you ever had a commercial driver's license (CDL)?

Yes  No

Have you ever had any training as a professional driver?

Yes  No

Do you know anyone well who has ever had training as professional driver?

Yes  No

How many driving violations have you been caught for in your life? (**Remember that all this is confidential.**)

- 0
- 1 – 3
- 4 – 6
- 7 – 10
- 11 – 15
- More than 15

Have you ever had your driver's license suspended?

Yes  No

How many times in your life have you had to react to a serious sudden emergency while driving?

- 0
- 1 – 3
- 4 – 7
- 8 or more

How many times have you ever had to make an important driving decision when you had less than a second or two to make it?

- 0
- 1 – 3
- 4 – 7
- 8 or more

How many serious vehicle accidents have you seen occur or seen right afterwards?

- 0
- 1 – 3
- 4 – 7
- 8 or more

How many vehicle accidents have you been involved in?

- 0
- 1 – 3
- 4 – 7
- 8 or more

How many vehicle accidents were your fault?

- 0
- 1 – 3
- 4 – 7
- 8 or more

How many times have you been injured in a vehicle accident?

- 0
- 1 – 3
- 4 – 7
- 8 or more

Have you ever been seriously injured in any way at all?

Yes  No

If yes, what caused the injury? \_\_\_\_\_

Whose fault was it? \_\_\_\_\_

Did you sue?  Yes  No

Why or why not? \_\_\_\_\_

Has anyone you know ever been seriously injured in any way at all?

Yes  No

If yes, what caused the injury? \_\_\_\_\_

Whose fault was it? \_\_\_\_\_

Did they sue?  Yes  No

Why or why not? \_\_\_\_\_

How many people do you know who have been seriously harmed in any kind of accident?

- 0
- 1 – 3
- 4 – 7
- 8 or more

How many people do you know who have died in any kind of accident?

- 0
- 1 – 3
- 4 – 7
- 8 or more

Have you ever accidentally harmed someone physically in a serious way?

Yes  No

Have you ever been wrongly accused of physically harming anyone?

Yes  No

How many people do you know who have been seriously harmed by any kind of carelessness?

None  
 1  
 2 or 3  
 4 or 5  
 6 or more

At one time or another, almost everyone has been accused of doing something seriously wrong that they did not really do. How many times in your life (not counting when you were a child) has this happened to you? **(We will not ask you what it was.)**

Never  
 Once or twice  
 Three to five times  
 More than five times

How often have you heard about something bad happening to a person – such as having a serious accident or getting a bad disease – and you thought that *maybe* it was a kind of retribution for something bad the person had done earlier in life?

Never  
 Once or twice  
 Three or more times

Some people feel that many lawsuits happen because someone was too quick to sue and did not try hard enough to settle the problem in other ways. Do you agree?

I strongly agree  
 I somewhat agree  
 I do not agree

Should there be a maximum amount of juries are allowed to give for pain and suffering?

Absolutely yes  
 Probably yes  
 Probably no  
 Absolutely no

Why or why not? \_\_\_\_\_

Should there be a minimum amount of juries are allowed to give for pain and suffering?

Absolutely yes  
 Probably yes  
 Probably no  
 Absolutely no

Why or why not? \_\_\_\_\_

Are there too many high verdicts these days?

- Yes
- A few, but most are okay
- No

What is the most money you think should ever be awarded in a personal injury lawsuit?

- \$50,000 (fifty thousand dollars)
- \$100,000 (one hundred thousand dollars)
- \$350,000 (three hundred fifty thousand dollars)
- \$1,000,000 (one million dollars)
- \$5,000,000 (five million dollars)
- \$10,000,000 (ten million dollars)
- Higher (please indicate the highest amount it should be): \$\_\_\_\_\_
- No limit, as much as a jury wants to give

What is your general feeling about punitive damages in a personal injury cases?

(Check as many as you agree with):

- Punitive damages are fine when appropriate
- Punitive damages are often too high
- Punitive damages often make things safer
- Punitive damages often harm companies too much
- Punitive damages often can hurt the economy
- Punitive damages often punish companies that should be punished
- Punitive damages should be outlawed
- The amount of punitive damages in any one case should be limited
- Judges, not juries, should decide punitive damages
- The system should be left as it is
- Juries should be allowed to give as much or as little as they want
- Punitive damages just make lawyers rich

How big a problem do you think lawsuits are causing these days?

- None
- Very minor
- Somewhat of a problem
- A big problem

What percentage of lawsuits do you believe are frivolous (meaning lawsuits that should never have been brought to court)?

- 0% - 10%
- 20% - 30 %
- 40% - 50%
- 60% - 70%
- 80% - 90%
- 90% - 100%

This case involves someone who was paralyzed in a car crash. What is there about you, the kind of person you are, your experiences, your attitudes, or anything else about you that might help you be a juror in this kind of case (other than your ability to be fair and listen to both sides)?

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How do you think this might affect you as a juror in this case? \_\_\_\_\_

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What is there about you, the kind of person you are, your experiences, your attitudes, or anything else about you that might make it harder for you to be a juror in this kind of case?

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How do you think this might affect you as a juror in this case? \_\_\_\_\_

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**Please check all to make sure you left nothing \_\_\_\_\_. To certify that you have left nothing \_\_\_\_\_, write your juror number here again. \_\_\_\_\_**

**The next form is a sample of what to give focus-jurors for their deliberations.**

## **VERDICT FORM**

### **FOREPERSON: PLEASE READ ALOUD THE FOLLOWING:**

Cell phones and pages must be completely turned off during deliberations.

**ROUND ROBIN: Go around the table for each juror to give his or her initial opinion.** Each juror should take a minute or two to explain *how* he or she feels about the case, and *why* he or she feels that way. **NO CROSS-DISCUSSION IS ALLOWED DURING THE ROUND-ROBIN.** If anyone forgets and starts to talk when it is not his or her turn, the foreperson and other jurors must remind that person and now allow him or her to continue speaking when it is not his or her turn.

**START THE ROUND ROBIN NOW.**

**WHEN THE ROUND ROBIN IS OVER, THE FOREPERSON CONTINUES READING ALOUD FROM HERE:**

**Please remember that each of us has been asked here to make a fair and impartial decision in this case. To do that, each of us must fully participate in deliberations, respect the rights of each group member and deliberate until we have reached a verdict that is fair and impartial to all parties in this case.**

**Rule 1. Deliberate to a *unanimous* answer to each question below.** That means everyone must agree. Majority votes do not count.

**Rule 2. Be sure only one person talks at a time.** For this deliberation to be valid, every juror must listen carefully to what every other juror says. This cannot be done if more than one juror speaks at a time. The foreperson and everyone else must be diligent to present side discussions while someone else is talking. **IF TWO OR MORE PEOPLE ARE TALKING AT ONCE, EVERYONE MUST STOP TALKING IMMEDIATELY.**

**Rule 3. The foreperson's opinion is no more important than anyone else's.** The foreperson's job is *only* to conduct the discussion. The foreperson should *do no more talking than anyone else*. If the foreperson talks more than other jurors, the other jurors must politely point this out and insist that it stop. Otherwise, the verdict may be invalidated.

**Rule 4.** The foreperson must **make sure everyone has his or her say.**

**Rule 5.** The foreperson must make sure that **quiet jurors are frequently asked what they think.** This must be done on every topic that is discussed. No one is allowed to just sit and listen.

**Rule 6.** The foreperson must make sure that **only a few people do not do all the talking.** If any juror is talking a lot more than the others, the Foreperson and everyone else must politely point this out and insist that it stop.

**Rule 7.** If the foreperson forgets any of these tasks, other jurors should **politely remind him or her.**

**Rule 8.** The foreperson should conduct deliberations from his or her seat at the table.

**Rule 9. Do not interrupt while anyone is speaking.** It is especially important that the foreperson not interrupt anyone except when it is necessary to maintain order.

**Rule 10.** During deliberations, if anyone must leave for a bathroom break, deliberations must stop until that juror returns. **Do not discuss the case while anyone is gone.**

**Rule 11.** If you wish, the group may take ONE break later during deliberations. This should not be more than ten minutes. Be sure to watch the time carefully.

**Again: Answer questions unanimously.** Everyone must agree.

“Votes” may be taken along the way but they do not count.

**Remember: only one person may talk at a time.**

Your decision about money must not be the result of averaging.

If you cannot all unanimously agree on a question after a considerable amount of discussion, you may skip ahead and come back to it later.

**BEGIN NOW TO DELIBERATE ABOUT THE QUESTIONS THAT START ON THE NEXT PAGE**

**FOREPERSON – PLEASE READ THE FOLLOWING:**

Negligence is the failure to use the care that a reasonable careful person or company would use in the same situation.

With that in mind:

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?**

**Is everyone talking just one at a time?**

**Is anyone talking a lot more than the rest of us?**

1) Was [DEFENDANT] negligent?

Yes

No

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?**

**Is everyone talking just one at a time?**

**Is anyone talking a lot more than the rest of us?**

2) Was [PLAINTIFF/ANOTHER PERSON] negligent?

Yes

No

A person or company can be negligent *and still not be a cause* of the harm.

With that in mind:

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?**

**Is everyone talking just one at a time?**

**Is anyone talking a lot more than the rest of us?**

3) Was any negligence by [DEFENDANT] a cause of harm?

Yes

No

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?**

**Is everyone talking just one at a time?**

**Is anyone talking a lot more than the rest of us?**

- 4) Was any negligence by [PLAINTIFF/ANOTHER PERSON] a cause of harm?  
 Yes  
 No

A person who is suddenly faced with an emergency through no negligence of his own and who has to decide instantly how to avoid injury is *not* negligent if he makes a choice that a reasonably careful person placed in the same position *might* make, even if it is not the wisest choice.

With that in mind:

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?  
Is everyone talking just one at a time?  
Is anyone talking a lot more than the rest of us?**

- 5) Was [DEFENDANT] in a sudden emergency that he had no part in creating?  
 Yes  
 No

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?  
Is everyone talking just one at a time?  
Is anyone talking a lot more than the rest of us?**

- 6) If it was a sudden emergency, was [DEFENDANT] negligent in the way he/she responded to the sudden emergency?  
 Yes  
 No

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?  
Is everyone talking just one at a time?  
Is anyone talking a lot more than the rest of us?**

- 7) Was harm foreseeable to [DEFENDANT]?  
 Yes  
 No

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?  
Is everyone talking just one at a time?  
Is anyone talking a lot more than the rest of us?**

8) What percentage did each contribute to the harm? **Your total % at the bottom must equal either 100% or zero.**

**NOTE: Your decision must *not* be the result of averaging among the jurors.**

[DEFENDANT] \_\_\_\_\_ %

[PLAINTIFF/ANOTHER PERSON] \_\_\_\_\_ %

Any other persons or parties (write in names):

\_\_\_\_\_ %

\_\_\_\_\_ %

**TOTAL FOR ALL PERSONS/PARTIES LISTED ABOVE = \_\_\_\_\_ %**

**(TOTAL MUST EITHER EQUAL 100% OR ZERO)**

**PAYMENT, IF ANY, TO COMPENSATE the plaintiff for the harm.**

Do not write anything but dollar amounts. If you write words such as “a fair amount” or “what they asked for” or anything else other than an actual dollar amount, it counts as zero. If you leave any amounts blank, it also counts as zero.

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?**

**Is everyone talking just one at a time?**

**Is anyone talking a lot more than the rest of us?**

9) How much, if anything, should the defendant, \_\_\_\_\_, pay to the plaintiff, \_\_\_\_\_, to compensate for:

Loss of future income, meaning the money the plaintiff would have earned over the remainder of his natural life \_\_\_\_\_

Loss of use of parts of body \_\_\_\_\_

Pain and suffering \_\_\_\_\_

Medical expenses \_\_\_\_\_

Life care plan (including therapies, evaluations, special equipment, etc.) \_\_\_\_\_

Please write the **total amount** in words: \_\_\_\_\_ dollars

Please write the **total amount** in numbers: \$ \_\_\_\_\_

Willful negligence means knowing something is wrong but doing it anyway. Wanton negligence means knowing something is dangerous but doing it anyway.

With that in mind:

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?**

**Is everyone talking just one at a time?**

**Is anyone talking a lot more than the rest of us?**

10) Did [DEFENDANT] act with willful or wanton negligence?

\_\_\_ Yes

\_\_\_ No

**FOREPERSON – PLEASE READ THE FOLLOWING ALOUD AND SLOWLY BEFORE THE NEXT QUESTION:**

**Is anyone interrupting?**

**Is everyone talking just one at a time?**

**Is anyone talking a lot more than the rest of us?**

11) How much, if anything, should [DEFENDANT] pay in punitive damages?

Please write the **total amount** in words: \_\_\_\_\_ dollars

Please write the **total amount** in numbers: \$ \_\_\_\_\_

**FOREPERSON – PLEASE READ THE FOLLOWING:**

After you have completed deliberations, answer each question unanimously, you have three more duties:

1. Fill in the date below and print your juror number.
2. Each juror, including the foreperson, must **print** his or her juror number **in seated order from right to left** on the lines below.
3. Instruct all jurors to wait here. You will each have one final form to complete.

All jurors, including foreperson, **print juror number** (in seated order from right to left):

	3. _____ juror #	4. _____ juror #
	2. _____ juror #	5. _____ juror #
1. _____ juror #		6. _____ juror #

**CAMERA**

*Miller, Malekpour & Ball is one of the nation's most respected trial consulting firms.  
Contact Dr. Ball at [jurwatch@mindspring.com](mailto:jurwatch@mindspring.com), Debra Miller at [debrazmiller@portbridge.com](mailto:debrazmiller@portbridge.com), or Artemis Malkepour, J.D., M.H.A., at [artemis@consultmmb.com](mailto:artemis@consultmmb.com).*