

There Might Be Just Enough Time: 20 Minute Voir Dire

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My favorite part of trial is when we begin. I wake up that morning of the first day with a spring in my step. I am prepared! I know my case! I believe in my client! The unknown is who will decide the fate of my client's claims. But, I can control this, if I am prepared to conduct the most effective voir dire – no matter what the limits.

Voir Dire is the trial lawyer's first and only opportunity to speak with jurors and get a sense of how they will receive and view the evidence in our client's case. Will they be biased? Do they have closely held beliefs that will prevent them from being a fair and impartial juror? It is scary to think that arbitrary limits could be placed upon us and our client so that we are unable to discover the biases that might exist. The Code of Civil Procedure, section 222.5 provides that there should not be arbitrary time limits or a blanket time limit policy regarding the length of time for the parties to voir dire the prospective jurors.

Nevertheless we are often faced with these limits. Here are some tried and true ways to get the most your time.

Get Them Talking

How do you get a room full of people to share their views with you on sensitive topics? And, how do you do it quickly? I believe this can be a personal thing. Some attorneys naturally are better at this than others.

Remember to Listen

Let's face it, lawyers like to hear themselves talk. But, we know great attorneys are good listeners. Listening is where you will learn the most. This is just as true with witnesses as it is with jurors. I do most of my talking in the first 30 seconds to 1 minute of any voir dire. This is a brief introduction on why I get to ask them questions in the first place. Then I listen.

Be Smart

Don't waste time on areas that will not help you determine a jurors biases. In other words, think about your topics to hit on. It might also be a good idea to have the judge hit sensitive topics. This will help you focus your examination on jurors that peak your interest. Remember your objective in voir dire – to find the jurors who will hurt your case. You want to get these bad jurors off for cause.

Be Organized

When you have a limited amount of time to accomplish something being organized is much more important. In this regard, you should know your objectives during voir dire. You must have a clear path to probe on these questions completely, and quickly when you only have a limited time to examine all of the prospective jurors. Have an outline ready. Check off each subject once you cover it so you know you are doing everything you need to do.

Remember What They Say

You must take copious notes during your questioning. You may have to develop a shorthand. I personally do not spend too much time questioning folks that I know that the defense will successfully challenge for cause. I spend my time on the bad ones.

Be Yourself

In the end, be your authentic self. Be empathetic and sympathetic. Above all listen. This is not your time to do the talking. As you try more cases, voir dire will become easier. As it gets easier for you, you will undoubtedly become more effective. Good luck.