



Jurors take their jobs seriously and, at the end of their service, reflect on their experience with pride. The more we understand about what they need to do their jobs well, the more we can effectively speak for our clients.

1. Treat Every Moment With Jurors as Precious

Jurors want to do a good job and they take their service seriously. Respect their good will and honor the sacrifice they are making to serve.

Reverse roles with each of your jurors. What would you need to know as a juror? What would be confusing? What would be boring? What would inspire you to act with courage?

Not sure if your role-reversal is accurate? Start focus groups early and often. Listen – really listen – to what regular, qualified jurors tell you they need. They will tell you, at the least, that they do not need four days of repetition.

¹ "New Study Reveals How Juries Think and Behave," American Bar Association, September 2017, available at [/content/aba-cms-dotorg/en/news/abanews/publications/youraba/2017/september-2017/new-study-reveals-how-juries-think-and-behave](#) (last visited January 5, 2019).

2. Be Spontaneous, but Don't "Wing It" in Front of Jurors

"Winging It" and spontaneity are different. "Winging-it," also known as "shooting from the hip" in trial can be fatal. In one jury study, the NUMBER 1 thing jurors liked about the lawyers in their trial was "Organization and Efficiency."² Perhaps unsurprisingly, this also was the top issue for what jurors did not like.³

Preparation is key to making the most of your time before the jury. Preparation entails more than putting exhibit stickers on documents. Just like effective writing, effective trial presentation includes thoughtful editing. Make every



question for every witness matter.

Maybe you feel tense in your gut hearing this. You may be saying, "But I don't want to be scripted. I want to be spontaneous and able to react to whatever happens." Real preparation, which gives you a solid knowledge of the

evidence and the emotional core of your case will make you feel more, not less, free before a jury.

This kind of preparation goes beyond the basics of knowing how to work your computer seamlessly BEFORE TRIAL, if you need it in your presentation and indexing your exhibits and cross-index them with your witnesses, so you have everything in-hand when you're in the well. No wasting time picking through the exhibit box in front of the jury.

² The Hon. Amy St. Eve and Gretchen Scavo, "What Juries Really Think: Practical Guide for Trial Lawyers," *Cornell Law Rev.*, Vol. 103:48, 2018 at 52.

³ *Id.* at 55. (hereinafter "Cornell Study")

Consider this beautiful passage from an essay about Jewish religious practices:

Preparation for the performance of a mitzvah bears profound significance, just as preparation for prophecy is of utmost importance. A mitzvah loses much of its value when performed straightaway, with no prior emotional preparation. By preparing for a mitzvah beforehand, one identifies with it more profoundly and infuses it with greater value. Indeed, this rule applies even beyond the realm of specific mitzvah: every spiritually meaningful experience requires prior preparation. The more the individual has thought about the approaching event and worked towards it, the more he will derive from that event.⁴

The same principle applies at trial. The more you have internalized the facts and prepared yourself emotionally for trial, the more you will be able to give at trial and more the jury will receive. The more you prepare for trial, the better you can receive when the good stuff happens.

3. Jurors Notice Every Detail

In most jurisdictions, jurors are instructed not to discuss the case until they are deliberating. Imagine what they focus on and discuss in the meanwhile. . . Yep. You, your client, and the other party and its lawyers.

They notice how you treat the security guards downstairs. They notice if you wash your hands in the bathroom.

You do not need to be particularly handsome or stunningly beautiful to be effective with juries. But, you must control what you can. One trial lawyer summed up this hard truth:

Like it or not, we are in an age where appearance means a lot. I know that the Lord has not blessed me with superior looks, but at least blessed me

⁴ Harav Yehuda Amital, "Preparation and Spontaneity: Based on a sicha by Harav Yehuda Amital," Special Holiday Shuir, adapted by Rav Ronnie Ziegler, translated by David Silverberg, 1997, available at <https://etzion.org.il/en/preparation-and-spontaneity-0> (last visited January 5, 2019).

with the fact that I know I need help in that regard, and that I will try to at least dress appropriately. I have seen attorneys come into court wearing a suit and Air Jordan's on. This does nothing but reduce your credibility, and it creates the impression that you are not a successful attorney. Try to back away from the dark "power suit" image so popular with many attorneys and try a more subtle color scheme in your dress. Good appearance and tasteful dress goes a long way toward connecting with the jury.⁵

Consider, too, these pointed comments from jurors:

-- did not like that one of the attorneys had a hole in the seam of his jacket;

-- did not like that the attorneys "made me pay attention to their personal ties instead of just information;"

-- commented that the "defense did not seem as well put together (shirts wrinkled, hole in the back of his jacket);"

-- liked that the attorneys "dressed nicely, looked professional," but disliked that "one lawyer seemed sloppy;"

-- did not like attorneys' "hair in their face" and noted that one attorney "needs a haircut and looked a little disheveled;" and

-- found one attorney's "bright green nail polish" distracting and "not professional."⁶

These details include how lawyers treat each other. (Hint: Don't be a jerk.) Jurors see courtesy between the lawyers and courtesy to witnesses as a strength, not a weakness - and they cannot stand bickering. On study noted, that not only is interrupting a witness impolite, but jurors also perceive the interrupting attorney as less intelligent and less confident than one who allows the witness to finish.⁷

⁵ John C. Whitfield, "Connecting with the Jury," *The Advocate*, September/October 1997.

⁶ Cornell Study, *supra*, at 63.

⁷ William M. O'Barr & John M. Conley, "Subtleties of Speech Can Tilt the Scales

4. Jurors Expect Lawyers to Use Technology

The “CSI Effect” is real – to an extent. Jurors understand that real homicide investigators do not arrive on scene in Hummer SUVs, wearing white pants and stiletto sandals, and using DNA matches that travel faster than the speed of light. However, popular culture and the fact that even our elderly parents often have smartphones nowadays, has created the “tech effect,” derived from the evolution and advancement of modern technology.⁸

PowerPoint is not the answer – almost always. Rather, consider when preparing your trial presentation, if you can use technology to **show** jurors what happened, rather than **tell** them. If you thoroughly discovery your trial story, you can then prepare your presentation to include photos, videos, and even more high-tech evidence in a way that truly impacts your jurors’ understanding of the case.

5. Jurors Quickly Sniff Out Disingenuousness



Here’s an example:

of Justice. . . When a Juror Watches a Lawyer,” BARRISTER, 1976, at 8, 11.

⁸ Donald E. Shelton, Young S. Kim, and Gregg Barak, “A Study of Juror Expectations and Demands Concerning Scientific Evidence: Does the ‘CSI Effect’ Exist?” 9 *Vand. J. Ent. & Tech. L.* 331, 334 (2006).

Renowned trial lawyer goes into a small, rural town for a week-long jury trial. Before trial, the lawyer even goes out and buys a beat-up old pickup truck to drive to court every day. He never wears fancy suits to the trial and makes sure to wear his dusty, scuffed cowboy boots. He puts on one hell of a trial -- all the evidence goes in well; the jurors seem engaged.

He loses the trial.

The next day, the lawyer runs into the jury foreman at the local coffee shop. The foreman says to him, "Yeah. You almost had us there. Until one of us noticed your fancy, \$6000 watch."

Be you, but be sensitive to the people who are called to serve as jurors. Maybe a twenty-year-old pickup truck is absolutely not you, but if you are trying a case in a town where the average household income is \$36,000 per year, consider leaving the Rolex at home.

Curious about what you can do to improve your connection with each juror? Let's talk. Call 602-374-5321 and ask to schedule a consult.

