FACE READING APPLICATIONS FOR JURY SELECTION

by Mac Fulfer

JURY TRIALS

One of the most stressful times for legal practitioners can be that moment after the pretrial motions have all been heard and the judge finally directs the bailiff to call in the jury panel. As they look out on the courtroom, the attorneys for both sides know that hidden somewhere among that sea of faces is the final jury. From this room full of strangers only twelve will remain to make the ultimate decisions about the case.

While the attorneys have spent weeks, months or even years in preparation for the trial, the final outcome of the case will rest in the hands of these twelve people who know little or nothing about the case, the parties or the attorneys. In fact, any panel member who admits to prior knowledge will often be the first to be eliminated. And yet these uninformed strangers will decide who will win, who will lose and what amount of money or punishment will be given out, if any.

For most attorneys, the awesome responsibility of going through the process of selecting the final jury from the mass of people in the jury panel is at best confusing and at times may seem hopeless. As any seasoned practitioner knows, often the least reliable information received from the potential juror is what comes out of their mouth. Nevertheless, voir dire is an attempt to sort out the jury panel by asking them, questions and relying on their verbal responses and on the information the potential jurors gave in their juror questionnaires.

The problem with the voir dire process is that there is no way to know if the potential juror is being truthful, if they understood the question, or if they just do not want to cooperate with the system. Even when truthful, the potential juror's answers to the attorney's questions may not reflect their final decision about the case. Therefore, despite the lawyer's best efforts, the final selection of strikes may feel like guesswork.

However, the purpose of jury selection is not to have a guarantee on predicting the juror's final decision. I don't try to read the juror's mind. In fact, I think it is impossible to predict in advance any given juror's final decision. The individual cognitive processes and unique personal experience that we all use in making decisions are far too complex to be reduced to any predictive system. Decisions are based on our past experiences, our values, our thoughts, our feelings, our attitudes and our principals. Furthermore, many of the jury's decisions are made during the final deliberation and may include many factors, including compromise, the effect of a single holdout individual, or the persuasiveness of the presiding juror.

However, it is important for the attorney to discover whether a potential juror has a predetermined mind set, attitude or point of view which will make him or her an unacceptable jury candidate. And every piece of information available to help determine the potential juror's character, values, attitude and thought processes can be useful.

For example, in a damages case it can be extremely helpful to know if the potential juror is usually generous or is usually a stringy tightwad. Is this a person who is open-minded and wants to hear all the evidence or is this a person who often screens out information and is guarded and suspicious. Even knowing if the jury candidate typically bases decisions on facts alone or whether they base their decisions on their feelings and emotions can be a very valuable piece of information in the selection process.

The panel member's body language, gestures, dress, mannerisms, somatotype, handwriting and even what they are reading can give a perceptive observer insights into personality. The focus here will be on physiognomy or Face Reading as a tool for developing insight into the personality style of the jury candidate. For a person skilled in the art, Face Reading gives a quick and reliable guide to

the character and personality of the potential juror. Face Reading can be an extremely useful tool in jury selection where the ability to develop an accurate personality profile in the limited time given by the court can be the difference between winning and losing.

In selecting the jury, I first develop a profile of the best or most desirable juror and the least desirable juror based on the particular facts of the case. In the final analysis, the desirability of a potential juror depends on how that person will respond to the specific facts of the case. Each case must be evaluated on its own merits. It is important to look not only at the issues in your particular case but also the parties. For example, if you are representing an individual against a large corporation it would be helpful to identify the potential jurors who are typically focused on people issues wand who can emotionally respond to your client. If you represent the corporation, you may prefer persons who stick to the facts and do not let their sentiments enter into their deci-

sion making process.

There is another aspect of Face Reading that may be even more important than the development of the juror profile. Face Reading can give an accurate check of the individual panel member's responses during the voir dire questioning.

From experience, we know that we cannot always rely on what a potential juror says in response to a question.

However, non-verbal responses which cannot be easily controlled can give an attorney important information about those panel members who have already made up their mind before hearing the first piece of evidence.

JUROR PROFILES

While it may be impossible to predict a jury's final verdict with certainty, it is possible to improve the odds of a favorable outcome through better jury selection. Being able to develop an immediate and reliable personality and character profile of the individual juror can be invaluable. Having an insight into the way a per-

son habitually responds or typically evaluates information can be a tremendous help to the attorney in the way the case is presented.

In each case it is important to develop a profile of the best possible juror and worst possible juror based on the facts of the case and the parties involved. The following profiles are intended as aids to help evaluate potential jurors. It cannot be stressed enough that these profiles are not intended as final judgments on any potential juror but rather as a guide to possible character traits that you might want a person on your jury to have. Face reading is not about black and white judgments. People are far too complex to try to attach some permanent fixed label to them. On the other hand, we are all face readers and some of them most basic qualities and characteristics are clearly visible on every face if you know how to read it. The purpose of the profiles is to use them as guides to give a vocabulary and structure to your perceptions and the other information you receive.

DAMAGES

In cases where the principle issue is money, perhaps including questions of pain and suffering and or punitive damages, the following is a partial face reading profile.

PLAINTIFF		DEFENDANT	
Generous People	**People Oriented**	**Financially Conservative**	**Mistrusts Emotions**
big lips	round eyebrows	thin or no lips	small iris
broad nose	full cheeks	flat bottom lids	eye puffs over eyes
round ear notch	large ears	no ear notch	straight square chin
large round nostrils	round chins	small nostril	
			High Pain Tolerance
Responds Emotionally	**Accepting/Trusting**	**Fact Orientated**	broad square face
ski slope nose	round bottom eye lids	straight eyebrows	big powerful jaw
large iris	up turned mouth	hard knobby chin	big protruding chin
large upper eyelids	full loose lips	small ears	
	up turned nose	straight or pointed chins	**Skeptical/Mistrusting**
Identifies With Pain			flat bottom eyelids
thin face			down turned mouth
deep lines on lip			thin tight lips
vertical lines on cheeks			nose tip turns down

CONTRACTS

In suits where you are attempting to collect under a contract theory, you may want to look for conformist, business-type people who trust institutions and are establishment minded. These people are self confident, assertive, action orientated and invested in the system. They are characteristically black and white thinkers who are slow to extend trust to others. In looking at their faces for those qualities, you may want to keep those who are:

Aggressive, Competitive
big protruding chins
square muscular face
big jaws
high prominent cheeks

Wary, Mistrusting, Guarded and Controlled
Mouth turns down
Flat bottom eyelids
Angled eyebrows

Conformist, Pessimist
ears flat against head
deep-set eyes
eyes angle down

Decision Based on Fact
low straight eyebrows
straight square chins
no inner ear ridges
long straight nose
angled back forehead

Not Motivated by Sympathy for Others
thin arched nose
nose tip hangs down
thin or no lips
small high ears
small nostrils

THE HUNG JURY

IIn some cases where the other side has the burden of proof, a mistrial or hung jury can be almost as good as a verdict in your favor. In most cases, a verdict requires that at least ten of the twelve jurors agree on the same point or issues. Therefore, it can be extremely helpful to spot those people who seldom agree with others or anything:

Attracts Conflict, Devil's Advocate
low, bushy, tangled eyebrows

Independent Non-Conformist
ears stick out

Daredevil, Risk Taker
gap between front teeth

Has to be in Control
pointed chin
protruding chin
angled eyebrows

Irritable, Cantankerous, Unpleasant
heavy, puffy upper lids
hard knobby chin

Not Interested in the Opinions of Others
very small and high ears

Motivated by Self-Interest
stretches upper lip across teeth when smiling
thin or no lips
pointed chin
thin pointed nose

Does Not Trust
flat bottom eyelids
nose tip turned down
turned down mouth

Freight Train [ersonality
deep single vertical line between eyebrows
big powerful jaws

Suppressed Anger, Volcanic Temper
jaw muscle pumping

Crazy and Violent
white shows all around eyes

DEVELOPING EFFECTIVE COMMUNICATION WITH FACE READING

It goes without saying that the practice of law depends on effective communication. An attorney's stock and trade is his or her ability to offer sound advice and opinions. As the client's advocate, it is important to not only understand their legal problems but also to be able to effectively present and defend their positions. Unfortunately, being able to clearly articulate the client's position does not make one an effective communicator.

The art of communication is less about being a profound orator and more about being a good listener. In fact, the ability to "read" the opposition, the judge, the jury and each witness examined can be more valuable than even the most polished of verbal skills. Yet, often the most successful of courtroom tacticians cannot explain how they "read" people. It is intuition, instinct or just some genetic gift that

allows some people to listen with more than just their ears?

While we all understand the importance of facial expression in communication and easily understand the meaning of a smile or a frown, few realize that a face is a living record and personality profile rolled into one. Actually, we are all face readers. Our primal intuitions about people's feelings, temperaments and intentions depend, to a great extent, on what we observe in their faces. We are all instinctive "face readers" from birth; however, we dramatically increase our personal effectiveness when we can quickly and accurately read every face like a map.

Face reading is not about the reading of mere facial expressions. Experience teaches us that facial expressions can be faked like the too sincere smile or crocodile tears. Nor is face reading about mere personal recognition. While it is true that we identify each other by facial recognition, we also have a first impression reaction to almost every person we meet, a reaction that we sometimes wish we hadn't ignored.

The face is like an internal self-diagnostic. Each face effects in its structure and lines its owner's personal history, mental attitudes, character traits, intimacy requirements, work ethic and personal preferences. It is possible by reading the structures of the face and its accompanying features to understand not only the other person's thinking style, but also their problem solving preferences, stress level, degree of openness, and even when they have stopped listening. Even a cursory understanding of face reading can give valuable insights that can be an aid in communication.