



Handwriting Examination Aids Attorneys with ABCs of Jury Selection

By Kevin Stirling, M.B.A.

When it comes to picking juries, attorneys scour every source, including juror questionnaire responses, for personality clues. Ruth Holmes assists attorneys in jury selections, reading between the lines on the juror questionnaires by examining the individual Ps and Qs.

Crossed t-bars, looped letters and the overall style and shape of the ABCs of potential juror signatures, writing or printing offer Holmes insights about jurors' character traits that can ultimately provide a courtroom advantage for attorneys and their clients.

Holmes, signature-sleuth, renowned handwriting examiner and nationally-recognized jury consultant, is president of Pentec, Inc., a forensic, personnel and trial consulting firm that she founded in 1983 and operates in Bloomfield Hills, Michigan. In recent years, Holmes has expanded her firm's operations with the help of her daughter, Sarah, who earned undergraduate and graduate degrees in psychology. Ruth Holmes launched a second Pentec office in Duxbury, Massachusetts, five years ago.

With two offices to operate and a busy workload to share, Ruth and Sarah Holmes are fast becoming a dynamic duo of handwriting examination. They are the second and third generation in this family business. Still active is Rachel Elliott, 94, also a handwriting examiner. In addition to jury consulting, as a forensic handwriting examiner, Ruth Holmes is court-qualified as an expert witness in federal, state and local courts.

A certified document examiner, Holmes works internationally and across the United States. She has assisted attorneys on both plaintiff and defense teams participating in many national trials, including those of Dr. Jack Kevorkian.

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Holmes notes for the record that historically, handwriting examination for authenticity and identification has been an important evidentiary tool used by attorneys and law enforcement agencies. It is not a new fad. In fact, many high profile cases, such as the Lindbergh baby kidnapping, the Howard Hughes will case, and the JonBenet Ramsey, anthrax and sniper investigations, have all utilized handwriting examination in a variety of ways, including comparing handwriting samples from crime suspects with ransom notes.

Looking forward, Holmes sees continuing, growing interest in the courtroom applications for handwriting assessments.

Attorneys are increasingly utilizing handwriting examiners like Holmes, not just as expert witnesses before jurors, but also to pick jurors. Just as X-rays enable a physician to see inside a person's body, an individual's handwriting allows professionally trained and experienced examiners an opportunity to assess the personality traits and character makeup of would-be jurors. Still, Holmes is quick to point out the complexity of handwriting appraisals and cautions attorneys to seek out knowledgeable and qualified practitioners to bolster their cases.

"Some signatures are very legible, which tend to be those of nonconfrontational, good-natured, logical, methodical, careful people. You would also look at spacing and whether the letters are close together, which would show more of an introverted person. You would not want to be too intrusive with them," she said.

"I think the amount of information available from a handwriting analysis depends on the amount of handwriting that is available and

it depends on the training, knowledge and experience of the examiner who is looking at the handwriting. Someone who does not know very much about handwriting may say, 'Large writing—oh they need a lot of attention,' and that is correct, but someone with more experience would also

Useful observations can also be made of courtroom players including the lawyers, witnesses and even the judges, should their signatures be available.

look at multiple factors such as large capital letters with small writing. This would be a converted introvert who acts like an extrovert, but is much more private.

You might have large handwriting and a small signature, indicating a person who plays down his strength. The space, form and movement of all the individual strokes are synthesized when you do an evaluation. We work with whatever amount of handwriting we have, and it can provide useful information in not only selecting but in presenting to the jurors."

There are multiple applications when handwriting examiners assist attorneys in finding resolutions before trial in witness interviews and focus groups by weighing and evaluating the personalities involved. Useful observations can also be made of other courtroom players including the lawyers, witnesses and even the judges, should their signatures be available. As a result, Holmes says the strategic advantage for attorneys is to bring handwriting examiners into their discussions—sooner rather than later.

"As a trial consultant with handwriting knowledge, I think the earlier an attorney brings us in on a case, even for the initial consultation, the better. Many cases should just never go to trial. Knowing something about the case and client ahead of time is not a bad place to start," said Holmes.

Nonetheless, while Holmes is an ardent proponent of using this tool, she is also quick to point out that handwriting assessment,

even with all of its insights, benefits and potential uses, is still not the be all, end all, silver bullet solution. Handwriting knowledge is certainly a helpful tool, but it has its limitations too. "The prime advantage that an attorney would have by using a handwriting examiner is a deeper understanding of how a person thinks, feels and how they are likely to react," said Holmes.

Some law firms also secure the personnel and human resource services of examiners like Holmes to assist with hiring decisions.

Handwriting analysis also helps identify Leaders and Followers. It identifies those jurors who would be helpful in a plaintiff case because they are emotional, generous and sympathetic as well as those who would be good for a defense case where facts, figures and objectivity are major factors. Identifying the unpredictable, stealth jurors or "wild cards" before final jury selection can be critical. Some jurors are so perfect for a particular side that the advice is to not reveal them at all.

"Handwriting is not predicative and no one can foresee the outcome of a trial because of so many

variables, but using it can make a difference. Sometimes you may have a great jury and a lawyer who presents very badly, or you may have a great attorney and a jury who all of a sudden is not listening because they have already decided guilt or innocence. There are so many factors that affect the outcome. I see the advantage for attorneys as simply adding a handwriting dimension to what they already know," Holmes said.

"I have been called late into situations where lawyers just want help with the jury, or I have been asked about the evidence they will be presenting, about the witnesses' handwritings or the client's handwriting. On occasion I have told the attorney, 'Be careful about trusting this person's testimony. This client/witness will likely not tell the truth.'" Holmes recalled.

Not surprisingly, examiners likes Holmes are incredibly detail-oriented professionals.

Handwriting Analysis

Below are some examples of how handwriting expert Ruth Holmes would analyze a person's date and signature. She emphasizes that this is a simplified analysis and that any actual conclusions would be based on many more factors.

<p>Date <u>2-21-07</u> Signature <u>H.B. Wagner</u></p>	<p>Sample #1: Introverted (narrow writing), fact-oriented (small forms) and analytical (angles). This is likely a defense juror who will follow others and base his opinions on the data and details.</p>
<p>Date <u>2/22/04</u> Signature <u>Rachel P. Stone</u></p>	<p>Sample #2: Emotional (forward slant), generous (wide letters) and sympathetic (garland connections). This is a plaintiffs' juror who would lead others if no one else steps forward.</p>
<p>Date <u>Jan 4, 04</u> Signature <u>Ally Leonard</u></p>	<p>Sample #3: Unpredictable (variable slant), impulsive (erratic movement) and contrary (changeable forms). This juror is a wild card who can swing either way.</p>

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In making assessments for attorneys, Holmes carefully, yet clinically, pores over an individual's penmanship, frozen forever in time like hieroglyphics from centuries ago. She systematically scrutinizes the style, spacing and shapes of the characters ingrained in each writing sample, hoping to decipher some pieces of information that will help an attorney and their client.

In her role as jury consultant, Holmes also advises attorneys in other areas pertaining to a case that may also influence the direction of a trial. These include jury graphics, presentation style, body language and overall demeanor of the attorneys themselves. Some jurors are very visual, while others just need to hear the facts. Understanding the different juror styles from the handwriting is significant in how a case is explained to the jury.

"In a law firm you may find partners with distinct styles: one is excellent at presenting facts and the other is much better at presenting the human story. Should you have the signature of a judge with small, tight, correct, connected letters, it would be helpful to know that in advance so you could let the partner with similar writing present the facts of the case in the motions and pretrial meetings because, like the judge, he will stay focused on the details in a calm, objective manner without emotion and grandstanding. I have seen cases where the judge will tell the attorney, 'You are getting too emotional.' Understanding the courtroom personalities and something of their communication styles is not a bad way to prepare for trial," Holmes advised.

Some law firms also secure the personnel and human resource services of examiners like Holmes to assist with hiring decisions.

"Handwriting analysis can help in simply understanding office dynamics. I have seen a number of law firms who are hiring partners and

they want to consider, 'How would we work as a team presenting our cases?'"

As a jury and trial consultant, Holmes views handwriting examination for personality assessment as a constructive tool for attorneys to use together with other disciplines in order to prepare for, settle or win their cases.

"In going to trial, there are a lot of pieces to assemble. I do not think handwriting is the whole story, but if it is used skillfully, important insight is accessible. When admitted to the bar association, an attorney takes an oath to do whatever is within his/her power to assist a client. When lawyers realize the value of using handwriting in assisting with the preparation, in selecting the jury, or simply in understanding the courtroom players, then they will rarely go to court without it," said Holmes.

*Attorneys are increasingly utilizing
handwriting examiners like
Holmes to pick jurors.*



*For more information
about handwriting
examiners Ruth Holmes
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www.pentec.net.*

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A Proposed Speech for Judges to Use in Welcoming the Venire

By Richard P. Matthews, J.D.

As you know if you see many trials, some judges try to give an introductory speech about the importance of jury service to venirepersons when they are first herded into the courtroom. Some speeches aren't bad. Some. I mean, some start with "I know you probably don't want to be here, but let me try to convince you that it's important." Really. Exact quote. Not exactly rallying the troops. So in case any judges might like a different speech, I offer this one for anyone's use. Practitioners can suggest their judges use this speech, too—they might get some better jurors staying on the panel!

Good morning, ladies and gentlemen. My name is Judge _____ and I welcome you to your courtroom. I say "your courtroom" because all the courts belong to you, the

citizens of this state. There's a reason we have courtrooms: we need a civilized way to resolve disputes that arise in our community, and having good citizens like yourselves come in and hear a dispute in our community and give a verdict... well, that's about as civilized as it can get. Today, these parties at these tables in front here are asking for a jury to resolve something.

"Let me put it this way. There's a lot of talk in America these days about our core values and fundamental principles. Maybe we would all agree that anything in the Bill of Rights is a basic, core American principle. Foundation. Bedrock. You know the First Amendment guarantees freedom of speech and the Fifth Amendment says you can't be forced to testify against yourself, and other things you might recall. Well, the Bill of Rights also gives us the Seventh Amendment, and it relates to civil trials like this one.

And you know what it says? It says, "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved."

Well, I can pretty much guarantee that these parties are fighting over more than \$20. [Pause for puddles of laughter.] So that means that our fundamental American values are that we want them to have a jury if they want one.

Why? Because we don't want people in our community settling their scores in other ways, like old duels, or just breaking in and stealing what you think is yours.

And notice what the Amendment tells us—it says that the right to a jury shall be preserved. Preserved. That means it already existed before the 1790s in America, and the founders just wanted to make sure it was continued. Basic values, folks. Been around for centuries.

*I welcome you to your courtroom.
I say "your courtroom" because all
the courts belong to you, the
citizens of this state.*

But why should folks care, folks like yourselves who have taken time out of your life because you were summoned by the court for jury duty? Well, I can think of at least two

reasons. First, I hope you will agree that it is good for democracy and for civilization to have regular citizens from the community come in and solve disputes rather than leaving it to people to fight it out in other ways. Second, someday you might have a dispute and need some good people to come in and resolve it. Think of it as donating blood: it's not fun, but you do it once in a while because it's important and because you want there to be others who will help out when you might need it.

And there's something else: most people never serve on a jury, and most people who have been a juror have only done it once or twice in their whole lives. That's a pretty small price to pay to live in a society that resolves problems this way. Your country calls on you for three things: vote a couple times a year, pay your taxes every year, and come in and be on a jury once or twice in your life. It should be an honor to do all three,

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because that price is small compared to what it took to get these rights and to keep them for 220 years.

Now, I appreciate the fact that nobody woke up today and really wanted to come in, take an oath to tell the truth, and then get

asked a bunch of personal questions and have to answer them in front of strangers. Please understand that the lawyers and I don't want to make you uncomfortable and certainly don't want to embarrass anyone. But I can tell you right now: if you are a human, you have some biases and attitudes, and I specifically asked the jury commissioner to send up only humans this time. [Pause for chuckles.]

So we expect folks who have attitudes, experiences and biases about things. But we have to find out whether some of those biases and attitudes are about some of the subjects in this case. Because if so, then you won't be the right juror for this case. Wouldn't be fair. So that's why we will ask you lots of questions. This same process is happening in about 4,000 courthouses across America this week, so you are in big company.

Many of you will be asked to leave, and you won't really get an explanation as to why. Please understand that it's nothing personal. You are a fine person in many ways, but maybe just have something in your background or in your mind that would make you a great juror on some other case, but not this one. We thank you for your good citizenship and for coming in here anyway.

We have lists of your names, both random and alphabetical. We follow the random list when we're putting you into the jury box, but you'll see the lawyers and the clerk jumping around between lists. Don't worry about it. I always think it looks funny myself, so that's why I mention it.

[Handle hardships and the more obvious cause challenges here. Then:]

So we will call the first 18 of you from the random list, and we will get to know you first.

The rest of you in the back, please pay attention because many of you will get up here too, and we can save time by just asking you, "Did you hear the earlier questions?"

What answers did you think of for them?"

Again, folks, we all thank you for putting aside whatever is going on in your life this week and coming in and being part of resolving a dispute in our community. It's what good citizens do in a good democracy. Thanks for taking part here today. I'm honored to have you in our courtroom.

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Testifying in the Theater of the Courtroom

By Joe Navarro, M.A.

When the judge read the jury's verdict, the courtroom was stunned. How could this be? It seemed like a simple, open-and-shut case. Later, reporters questioned the jurors who spoke of factors that counsel never imagined would impact this case.

The theater of the courtroom has changed in the last 20 years. As many trial consultants have found, the performances of the actors (lawyers and witnesses) in the courtroom impact the outcomes of cases. How people testify and how others perceive them are as important as their testimony. If these actors fail to communicate properly or the jury does not believe them, then all of the effort put into investigating the case will prove pointless. Instead, pretrial work must be presented properly in court, jurors must understand witnesses, testimonies must be competent and reliable, and everyone must present the truth. Often, however, key witnesses do not see themselves as actors in this drama.

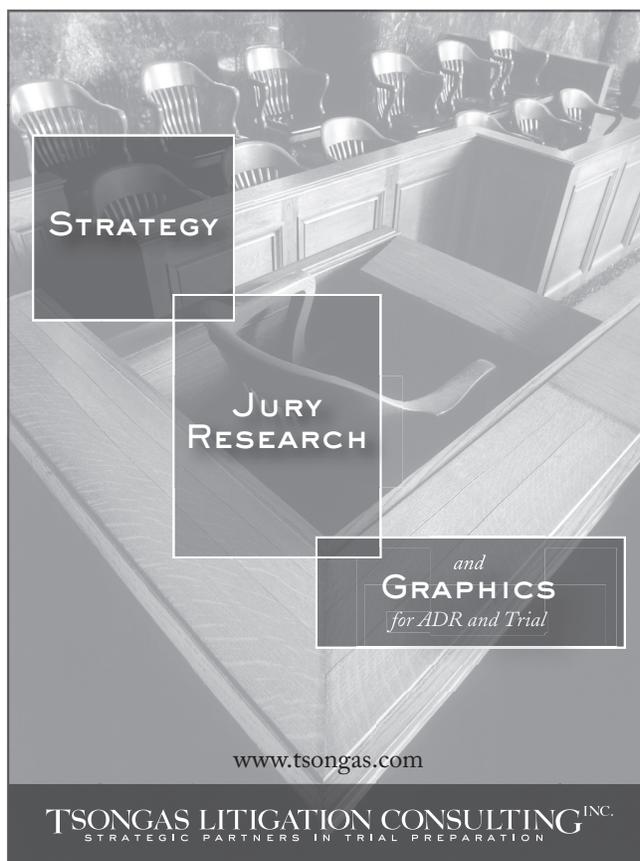
Today's jury (the audience) has evolved from 30 years ago. Jurors are older, more representative of both sexes, and increasingly racially and ethnically diverse. Further, they have a greater variety of backgrounds and a higher level of education. Jurors arrive loaded with their own notions of the courtroom, what they expect to see and hear, and how others should present the information. Today's jury has seen thousands of hours of television images, which accounts for much of what they anticipate in the courtroom. They are both more demanding and distrustful than their predecessors.

Unsurprisingly, surveys show how often jurors feel disappointed by the performance of the actors during the trial. These disappointments have serious consequences. They translate into mixed-up jurors, deadlocked juries or acquittals.¹

Jury surveys and research in communication provide witnesses guidance on how to be more effective in court, whether sitting at counsel's side or testifying as a witness. Communication, both nonverbal and verbal, must be effective and persuasive, and jurors must perceive witnesses as truthful and competent. The following guidelines highlight key communication issues and provide counsel a few tips for improving witness performance, as well as their own.

Dress and Attire

Ample evidence suggests that, for males, the traditional dark blue suit, white shirt and conservative tie projects success, competency and even veracity.² Popular television newscasters



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¹ Daren Fonda, "A Real Head Case," *Time*, November 24, 2003, 35.

² Judee K. Burgoon, David B. Buller, and W. Gill Woodall, *Nonverbal Communication: The Unspoken Dialogue* (Columbus, Ohio: Greyden Press, 1994), 383-385; and Nancy Etcoff, *Survival of the Prettiest: The Science of Beauty* (New York, NY: Anchor Books, 1999), 79-80.

seldom vary their attire from this combination of colors. Conversely, male witnesses should avoid brown colors because they do not convey authority, honesty or erudition as well as blue and gray colors.³

Female witnesses should choose comfortable attire with a conservative length and style. They should avoid loud colors or sexually suggestive attire. Shoes should be comfortable and stylish. Women should avoid wearing high heels or open-toe shoes. Inappropriate or unprofessional clothing that defies convention can distract or even antagonize a jury.⁴ Further, women's earrings should conform with conservative wear, and both sexes should avoid displaying tattoos or body piercings. Many people perceive tattoos and excessive body piercing as "blue-collar" artifacts, remnants of rebellion and immature injudiciousness that carry negative implications.⁵

Nonverbal and Verbal Components

Simple, unconscious communication habits can betray what a person knows or hopes to achieve.⁶ Facial expressions can prove revealing and problematic. Displays of indifference, disgust, antipathy, displeasure or arrogance interfere with a jury's perception of a key witness. Witnesses should avoid rolling their eyes (perceived as disrespect) and knitting their eyebrows or forehead (reflecting trouble, strain or concern),

actions jurors readily and universally scrutinize.⁷ Witnesses should present confidence rather than arrogance, which the jury often perceives and translates negatively.⁸

Openness is integral to effective communication. Honest individuals tend to display more openly than dishonest ones. People who become tense and hide behind objects appear less open, causing others to question veracity.⁹ Witnesses should not use hand and arm gestures that detract from openness.¹⁰ They should display their hands with palms up—leaving nothing between them and the

jury. Also, effective witnesses emphasize by leaning forward because jurors usually receive this as a sign of commitment, openness and veracity.¹¹ Most talented speakers use their hands and arms to illustrate and animate.¹²

Emphasis is the nonverbal component of speech that gives gravitas to a statement—a verbal underline. When testifying for hours on the stand, emphasis tells the jury what is important. Counsel can help witnesses communicate openness by reminding them that using palm up and out gestures indicate openness while steepling (finger tips together) suggests confidence around the world. Good eye contact with the jury, the judge and the examining attorney is also a way to show openness.

Lowering voice pitch for emphasis often proves more productive than raising it. Further, weak or

Jurors arrive loaded with their own notions of the courtroom, what they expect to see and hear, and how others should present the information.

³ John T. Molloy, *Dress for Success* (New York, NY: Warner Books, 1975), 164-165; and Jo-Ellan Dimitrius and Mark Mazzarella, *Put Your Best Foot Forward: Make a Great Impression by Taking Control of How Others See You* (New York, NY: Fireside, 2002), 171-175.

⁴ Id. (Molloy), 187-196.

⁵ Desmond Morris, *Body Watching* (New York, NY: Crown Publishers, 1985), 80-83.

⁶ Ronald B. Adler and George Rodman, *Understanding Human Communication* (New York, NY: Holt, Rinehart, and Winston, 1988), 337-339.

⁷ John Schafer and Joe Navarro, *Advanced Interviewing Techniques: Proven Strategies for Law Enforcement, Military, and Security Personnel* (Springfield, IL: Charles C. Thomas, 2003), 73-80.

⁸ John A. Call, "Making the Research Work for You," *Trial* 32, no. 4 (1996): 25.

⁹ Joe Navarro and John R. Schafer, "Detecting Deception," *FBI Law Enforcement Bulletin*, July 2001, 9-13.

¹⁰ Supra note 2 (Burgoon, et al), 384.

¹¹ Supra note 2 (Burgoon, et al), 378-379.

¹² Mark L. Knapp and Judith A. Hall, *Nonverbal Communication in Human Interaction*, 3d ed. (New York, NY: Harcourt Brace Jovanovich, 1997), 262-269.

high pitched voices annoy others. If jurors have to strain to hear a person's voice, or if someone has annoying vocal qualities, jurors often tune them out. A soothing, resonating voice gets jurors' attention. Although these techniques may take some effort, witnesses should practice these skills as actors and newscasters do.¹³

In the Courtroom

Post trial and mock trial surveys show that attorneys often fail to connect with juries because they neglect to show jurors respect.¹⁴

Attorneys should stand when jurors enter the courtroom and turn their attention toward them—actions that earn respect. Further, officers of the court can subtly preen themselves

(e.g., pressing down their coat, jacket, dress, or tie)—jurors perceive efforts to groom symbolic of caring, attentiveness, and respect.

Where possible, even before court procedures begin, attorneys should display warmth and friendliness and smile at others. In most courtrooms, jurors wait in hallways prior to their selection. Attorneys should greet potential jurors and make eye contact as they walk by; jurors may not personally know the officers of the court, but they will remember glad graces.¹⁵ Further, attorneys should make eye contact often, but respectfully, with the jury while performing in the courtroom.¹⁶ Attorneys should strive for jurors to see them as a friend, rather than as the enemy.

Jurors usually remember information through visualization. A well-prepared visual

(demonstrative) supports verbal testimony, which will resonate with jurors during deliberations. For best results use demonstratives where the background is blue and the writing is either grey or yellow. Television long ago found these colors to be remembered longer by viewers. Juries want to hear a logical and meaningful story about what happened, and they also want to see it in their minds.¹⁷ Jurors are accustomed to watching a medium that presents stories cogently and in order. Jurors perceive individuals who come prepared, speak authoritatively with the facts

(not generalities), and present their testimony without hesitation as more credible.¹⁸

Witnesses should speak clearly. Most people normally say approximately 120 words per minute, yet

individuals can understand at twice that speed. The slower a person speaks, the greater their chances of lulling the audience.¹⁹ Witnesses should not use industry jargon or acronyms unfamiliar to the jury. If jurors do not understand a word, they will ignore it or, worse, think it means something else. For example, the word *paramour* becomes *power mower*.

Also, repetition serves well, but not when overdone. In fact, studies suggest that when matters are repeated more than five times, jurors begin to balk at the information.²⁰ Details are best remembered when presented at the beginning (rule of primacy) and at the end (rule of recency).²¹ Further, prior to the trial, witnesses, especially expert witnesses, should work with counsel to prepare for conceivable questions and try to anticipate issues and how to best explain them without appearing nonplussed.

Today's jury has seen thousands of hours of television images, which accounts for much of what they anticipate in the courtroom.

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¹³ Supra note 3 (Dimitrius and Mazzarella), 203.

¹⁴ Amy Singer, "How to Connect with Jurors," *Trial* 35, no. 4 (1999): 22.

¹⁵ Jo-Ellan Dimitrius and Mark Mazzarella, *Reading People* (New York, NY: Ballentine Books, 1998), 45-75.

¹⁶ Supra note 2 (Burgoon, et al), 401.

¹⁷ David A. Wenner, "Preparing for Trial: An Uncommon Approach," *Trial* 34, no. 1 (1998): 34-35; and supra note 15, 23.

¹⁸ Supra note 8, 23; and supra note 2 (Burgoon, et al), 380.

¹⁹ Supra note 6, 340.

²⁰ Supra note 17, 34.

²¹ Thomas Sannito and Peter J. McGovern, *Courtroom Psychology for Trial Lawyers* (New York, NY: John Wiley and Sons, 1985), 163-64.

²² Amy Singer, "Practice Makes Perfect: The Psychology of Witness Preparation," *Trial* 32, vol. 9, (1996): 70.

Witnesses who appear comfortable, open and genuine will give more effective testimony.²² Counsel should discuss any issues or concerns before the trial, review witness testimony to ensure it makes sense, and determine if anything about their appearance might detract from their testimony. Witnesses, even experienced ones, should attempt to overcome fears and anxieties about testifying. Such anxieties are reflected in their body language, which, unfortunately, jurors often misconstrue as signs of deception.²³

Biting the lip, touching the nose or the back of the neck, jiggling a foot or leg, tugging at ears, or wringing hands often are misunderstood as evincing mendacity when, in fact, these pacifiers merely reflect

the assuagement of tension or nervousness. No research supports that these behaviors alone indicate deception.²⁴

On the stand, witnesses can be human—cry and admit mistakes—but they never must lie or give the appearance of lying. They should not get tricky or clever; it almost always backfires. Further, witnesses should not try to settle a score with opposing counsel, indulge in histrionics or facial gestures, or act blasé. They should think carefully about every question and deliberate on each one for the same amount of time, remaining pensive, not reactive. Additionally, witnesses should not try to fill any silence voids; working this out with counsel ahead of time and remaining mindful of various tactics opposing counsel may use will result in more effective testimony. As testimony unfolds, a witness should remain attentive and lean into the questioner and the jury.

Conclusion

Witnesses play a vital role in the courtroom—that juridical theater where judges and juries make life-altering decisions based, for the

most part, on the performance of witnesses and the weight of their testimonies. Jurors expect witnesses to be open and genuine, not clever or tricky. Those who present before a jury have a duty to communicate effectively, honestly, and with respectful deference. What witnesses wear and how they speak, behave, and present in the courtroom often determines the effectiveness of their testimonies. This, after all, is the theater where performance truly matters most, where what is said and how it is said will

influence jurors. Officers of the court as well as the witnesses must provide the audience with the information it needs to make effective decisions in the theater of the courtroom.

As testimony unfolds, a witness should remain attentive and lean into the questioner and the jury.



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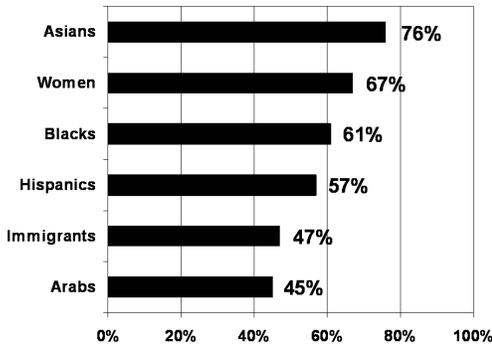
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²³ Id. at 71.

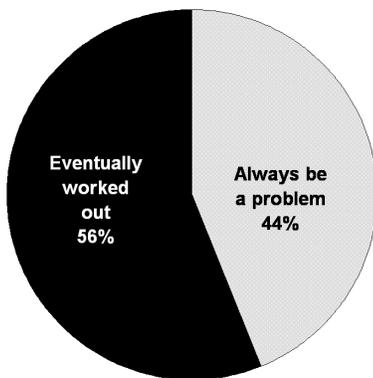
²⁴ Charles V. Ford, *Lies! Lies! Lies! The Psychology of Deceit* (Washington, DC: American Psychiatric Press, 1996), 198-227; and Joe Navarro, "A Four-Domain Model of Detecting Deception," *FBI Law Enforcement Bulletin*, June 2003, 20-21.

JUROR ATTITUDES: *Racial Relations*

Percentage of people saying they are satisfied with how the following groups are treated in society.¹



Do you think that relations between blacks and whites will always be a problem for the United States, or that a solution will eventually be worked out?²



¹ Source: Gallup Poll, among US adults, N=2032, June, 2006.

² Source: Gallup Poll, among US adults, N=2032, June, 2006.

Quick Courtroom Tips

By
Bob Gerchen

Think and Speak Like the People You're Speaking To

Early in his career, a soon-to-be famous lawyer tried what he believed was a masterful case. He had laid out his case clearly. He had directed his witnesses beautifully. His cross-examinations were on-point and scored many points. His closing was passionate and well-organized.

As he and opposing counsel awaited the verdict, they were informed that the jurors needed some questions answered before they could continue with their deliberations. Once all the parties were assembled in the courtroom, the foreman rose. "Your honor," he began, "there were two words that were used throughout the trial that we don't understand and we were hoping you or the lawyers could define them for us. The two words are 'plaintiff' and 'defendant.'"

It's all too easy to use words in a courtroom that you use in everyday practice. Keep in mind, though, that to jurors, words like "injury," "produce," and "appearance" have different meaning in everyday life than they do in a courtroom.

For example, a friend and colleague, Anne Graffam-Walker, who is a linguist and former court reporter, once worked a deposition in which she took down the following exchange:

Attorney: Is your appearance here today pursuant to a deposition notice I sent to your attorney?

Witness: Um, no. This is how I dress when I go to work.

It's an easy rule: When speaking to laypeople, speak in lay language.

Bob Gerchen is the Director of the St. Louis office of Litigation Insights. He may be reached at (314) 863-0909 or by e-mail at rgerchen@litigationinsights.com.

*For more information about Bob Gerchen's book, **101 Quick Courtroom Tips for Busy Trial Lawyers**, visit www.CourtroomPresentationTips.com.*

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