

Increasing Juror Candor

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Increasing Juror Candor Begins By Ending Barriers

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1. Allow supplemental juror questionnaires (filled with attitudinal questions).

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QR Code through eJuror

PLACE STAMP HERE

SCAN QUESTIONNAIRE IMAGE BELOW

ADD TEXT HERE

HOW TO SCAN: OPEN, AIM & TAP

1 Open the camera on your phone

2 Aim it at the Flowcode

3 Tap the banner that appears

4

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2. Allow attorneys to present mini-openings *before* oral voir dire to provide jurors with context for their biases.

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3. Allow attorneys to ask most voir dire questions.

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2X

When Judges Ask Questions of Jurors

Jones (1987)

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4. Ask questions in a way that encourages honest bias.

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Extended *Voir Dire* Predicting Verdicts

11/13 extended *voir dire* responses significantly predicted verdicts (from strongest to weakest predictor):



Takeaway:

- Almost all extended *voir dire* questions predicted case judgments
- The biasing impact of these pre-existing attitudes on case judgments was NOT reduced by judicial rehabilitation

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Jessica M. Salerno, John C. Campbell, Hannah J. Phalen, Samantha R. Bean, Valerie P. Hans, & Lee Ross. (in press). *The Impact of Minimal Versus Extended Voir Dire and Judicial Rehabilitation in Civil Cases*. Law and Human Behavior

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Extended *Voir Dire* Predicting Damage Awards

8/13 extended *voir dire* responses significantly predicted damages (from strongest to weakest predictor):

1. Unwillingness to Award Non-Economic Damages (single item)
2. Negative Attitudes toward Lawsuits Scale
3. Trust in Plaintiffs (single item)
4. Limit Litigation Scale
5. Skepticism toward Plaintiffs Scale
6. Burden of Convincing on Plaintiffs (single item)
7. Burden of Proof is too low (single item)
8. Plaintiff attorneys are liars (single item)

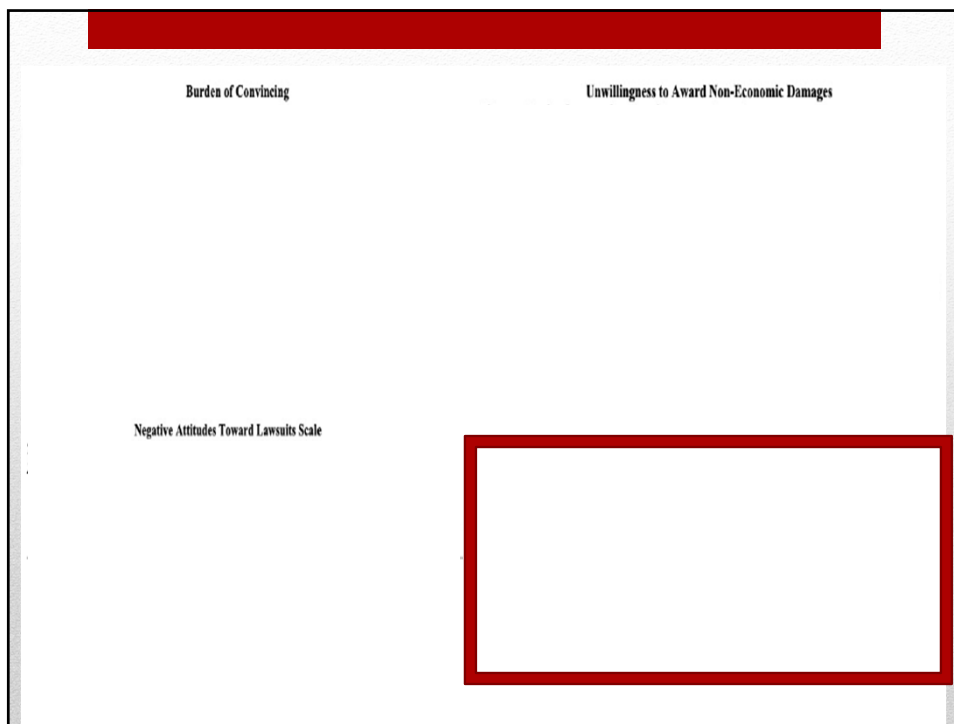
Takeaway:

- The majority of extended *voir dire* questions predicted case judgments
- The biasing impact of these pre-existing attitudes on case judgments was NOT reduced by judicial rehabilitation

****The link between pre-existing attitude and verdicts not reduced by judicial rehabilitation.**

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GET JURORS INVOLVED EARLY: LET THEM DO THE TALKING

- Intro bio (4-5 question: "get to know them")
- Initial hand raising

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KEEP THEM TALKING

- Intersperse majority response questions
- Employ the springboard method

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AVOID THE SOCIALLY DESIRABLE RESPONSE BIAS

- "Any bias or prejudice"
- "Fair or impartial"
- "Do you understand that ..."



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**FOCUS ON
DIFFICULTY
VERSUS
ABILITY**

**Have any ...
What ...**

- difficulties**
- problems**
- reservations**
- concerns**

v.

**Able/ability
Can you ...**

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**CONTRAST
COMPETING
POSITIONS**

Some people believe ...

Other people believe ...

**Which is closer to
your view?**

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HIGHLIGHT UNDESIRABLE OR PROHIBITED BEHAVIOR V. "BIAS"	Need more evidence Lean in favor Give more weight Start out a little ahead	v.	Bias against Bias in favor
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5. Honor the research about the failure of juror rehabilitation

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How many mock jurors admitted bias?

Minimal <i>Voir Dire</i>	Judicial Rehabilitation	Extended <i>Voir Dire</i>
Self-identifying questions (e.g., “Can you think of anything that might prejudice you?”)	The judge asked if they were able to set aside bias.	When asked about specific attitudes in extended voir dire
< 2%	< 2%	42%

Jurors are *willing* to admit bias—but need to be asked the right questions: specific and without “bad” words.

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- Replace Closed-Ended:
- With Open-Ended:

Replace Rehabilitation With Encouraging Curiosity

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**6. Enable attorneys ample time to
voice cause challenges.**

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