

Friday, May 30, 2008

### **The importance of identifying dangerous jurors.**

Â How many times do we meet people with twisted if not dangerous ways of looking at life and processing information? Some sue the government to stop directing neurotransmissions at their brain functioning. Others are convinced the FBI and CIA are tailing them, even when doing so would be a complete waste of the FBI's and CIA's time. Others are racist. I meet all such people and more merely through potential clients who contact me. Â One aspect of picking a jury is to get a sense of which jurors will have twisted and dangerous ways of processing information. Some may seem totally normal at first blush, until they start talking, so every potential juror should be asked at least one open-ended question, to get them to talk. Some will talk the talk very well. One thing is certain: Well-done lawyer-run voir dire/jury selection is more effective in weeding out such people than judge-directed jury selection (unless the lawyer wants to risk keeping them on the jury, in an attempt for a mistrial). Â It is remarkable how otherwise intelligent and clear-headed people will follow monstrous people and monstrous paths, from the followers of Hitler to the followers of Jim Jones to the followers of David Koresh, and the list goes on. Consequently, good questions for juryÂ questionnaires, if questionnaires are permitted,Â or else voir direÂ -- and hopefully answered honestly -- will be inquiries about potential jurors' free-time activities, the books they read, the organizations to which they belong and pay money, and the people they admire and interact with. Potential jurors do not need to admire monstrous people to merit being stricken from the jury panel; for instance, plenty of Lyndon LaRouche supporters are swarming around (I think LaRouche is twisted, not monstrous). Â The above-posted video -- an interview with a member of the fictitious Spinal Tap band, taken from National Geographic's YouTube page -- does a good job at satirizing and identifying the type of twisted logic and illogic that many people have. Â If there is one thing that might get through to judges -- including at the various bar association shindigs and meetings where much backslapping takes place and too little effort to make the judging and lawyering system more just -- it is to keep promoting lawyer-run voir dire to them. Every time I have a jury trial before a judge whose custom is to ask the voir dire questions himself or herself, I ask for lawyer-directed voir dire. Even when that request is denied, the judge still might give me some leeway in asking follow-up questions to some jurors during voir dire.Â Jon Katz.

Posted by Jon Katz in Persuasion at 00:00