

materials in a similar case.

- Obtain prior judicial pronouncements. They will indicate if a judge has limited the expert's qualifications.

Beverly L. Bove  
Wilmington, Delaware

## Hold a tight rein on your case

The following guidelines will help you to achieve control of your case.

- Exhibit knowledge of the subject matter of the case.
- Adopt a demeanor to show jurors, witnesses, and opposing counsel that you've prepared for the case and for the specific witness.
- Pace questions to impart confidence and comfort with the subject.
- Repeat questions the witness avoids in order to show control and insist upon responsiveness.
- "Ignore" the opposing lawyer. Don't let opposing counsel's tactics interfere with your case strategy. Pause while objections are noted, then proceed promptly and without argument.
- Focus on the witness; maintain eye contact.
- Recognize the need for flexibility. For example, you may need to rephrase or change the tone of your questions to accomplish your objective.
- Prepare for, and do not fear, judicial intervention.
- Be professional and courteous.

Mary Lynn Tate  
Abingdon, Virginia

## Conduct voir dire wisely

Identify jurors who can help communicate case issues to the rest of the panel. For example, if you have a panelist with experiences similar to your client's, question that person to educate the rest of the panel.

Don't be afraid to let jurors talk for fear of contaminating the pool. There is little evidence to support the belief that one juror's opinion causes other jurors to

change their attitudes.

Ask all jurors the same questions in a group fashion, then follow up on an individual basis. Foster a free exchange of information so most—if not all—jurors reveal their views.

Know well ahead of your trial date what represents good and bad answers to your questions. Good answers show jurors are favorably predisposed to your case. Bad answers reveal unfavorably predisposed jurors. Conduct pre-trial research to develop a profile of jurors likely to be favorably and unfavorably predisposed to your case. Your voir dire efforts will not be helpful if you don't know the type of jurors you need or the answers that reveal what they think.

Melissa Pigott  
Pompano Beach, Florida

## Tips for settlement

- *Be friendly.* Settlement negotiations will be more enjoyable and productive if you don't think of the other side as the enemy. Think of the insurance adjuster or opposing counsel as someone you are working with—not against—to solve a problem.

- *Be flexible.* Flexibility in style and approach will allow you to maximize the effectiveness of your negotiating efforts. Be the first to call. This can be a sign of strength and confidence.

Be flexible with the timing of negotiations. In some cases, there may be an advantage in starting a lawsuit before initiating negotiations. Other case negotiations will be more effective before formal action.

Use various means of negotiating. Negotiate directly through written correspondence, telephone conversations, or personal visits. Consider hiring a professional mediator to promote discussion.

- *Be persistent.* Communicate, communicate, communicate. Be neither too shy nor too proud. Listen carefully to the other side. Respond to the opponent's arguments.

Nancy J. Turbak  
Watertown, South Dakota

## Craft effective themes

Case themes can give structure and meaning to even the most complex litigation, but they will not emerge by themselves. Develop effective case themes by

- answering the question, "What is this case about?"
- defining what the jury must believe for your side to win and vice versa.
- considering whether an emotion-based theme (for example, rich versus poor, hero versus villain) applies.
- thinking about the visual punch of the theme.
- avoiding cliches that can confuse jurors.
- reducing the case theme to a 10-word "telegram."
- looking for themes or refinements of existing themes during discovery.
- explaining your case to nonlawyer acquaintances and asking for a brief statement of what they believe the case is about.

Once you select a theme, incorporate it into every aspect of trial. Highlight it in voir dire and opening statement, tailor your presentation around it, and emphasize it in your closing.

Theresa Zagnoli and Elizabeth Foley  
Chicago, Illinois

## Cut firm costs

Overhead has hurt many law firms. You must look for cost-cutting methods.

- *Have a cooling-off period after a sales pitch.* Always carefully consider a prospective purchase before you close the deal.
- *Test equipment in the office before buying it.* Copiers and fax machines often have built-in bugs. Be sure to get good service contracts.
- *Judge everyone by his or her contribution.* If staff are not contributing, replace them. Do not put off the inevitable.
- *Screen your cases.* What does it matter how many files you have if half of them are not worth anything?

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