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The Bridge From Voir Dire to Final Argument: Using “Brutal Honesty,” Personal Responsibility, and Juror Commitment to Shape the Verdict

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A trial does not begin with opening statements. It begins during jury selection.

Too often, lawyers treat voir dire as little more than a procedural exercise designed to eliminate unfavorable jurors. While this is an appropriate goal, the better approach, and the approach consistently employed by successful trial lawyers, is to recognize that voir dire represents the first and perhaps best opportunity to identify the values, beliefs and life experiences that will ultimately shape deliberations in the jury room.

Most importantly, jury selection creates the bridge from voir dire to final argument.

Jurors do not suddenly develop opinions during summation. Their beliefs already exist. The trial lawyer’s task is to uncover those beliefs honestly, openly and without fear. Once identified, those principles can become the framework through which the evidence is viewed throughout the trial.

One particularly effective technique is asking jurors for “brutal honesty.”

That phrase immediately changes the atmosphere in the courtroom.

Jurors understand precisely what is being requested. The lawyer is not asking for answers designed to help the plaintiff or the defense. The lawyer is asking for truth. Real opinions. Real feelings. Real beliefs.

The request may sound something like this:

“I need brutal honesty from you. Not answers that help me. Not answers that help the defense. Honest answers. Better we find out now, before anyone is empaneled, than later during deliberations.”

That phrase, “better we find out now,” is critically important. It removes fear from the process. Jurors no longer feel they are being judged for their opinions. Instead, they understand the goal is fairness.

Jurors appreciate candor. More importantly, they respond to it.

This technique becomes particularly powerful in cases involving personal responsibility.

Personal responsibility is one of the strongest themes available to trial lawyers because it resonates universally. Every juror has opinions about accountability. Every juror has experienced situations where someone failed to take responsibility, or where someone unfairly attempted to shift blame to another person.

Importantly, personal responsibility is not a theme owned exclusively by plaintiffs or defendants. Both sides can use it effectively.

Consider a construction accident case involving a dirty and cluttered worksite.

A worker descends a ladder carrying tools. The area beneath the ladder is littered with debris, scattered materials, cords and construction waste. As the worker steps off the ladder, he trips and falls, sustaining serious injuries.

The plaintiff claims the site safety inspector failed to properly inspect the worksite and failed to ensure safe conditions existed for workers required to use the area. According to the plaintiff, the inspector had a responsibility to identify hazards and correct dangerous conditions before someone was injured.

The defense, however, frames the case differently.

The plaintiff had worked at construction sites for years. He understood the nature of the environment. The condition was open and obvious. The plaintiff knew he had to watch where he was walking and failed to take appropriate precautions for his own safety.

Thus, both sides rely upon the same theme:
personal responsibility.

The plaintiff argues:

Take responsibility for failing to maintain a safe workplace.

The defense argues:

Take responsibility for failing to protect your own safety.

The battle for the verdict begins during voir dire when counsel explores how jurors themselves define responsibility.

General questions produce meaningless answers.

For example:

“Does everyone agree safety is important?”

Almost every juror will agree. The answer provides little insight.

Far more effective are questions that force jurors to evaluate competing responsibilities.

For example:

“Who here believes that if a company hires a safety inspector, that inspector should be held responsible when dangerous conditions are ignored?”

Hands will rise.

Then counsel may ask:

“Who believes experienced workers also have a responsibility to protect themselves, even when conditions may be unsafe?”

Again, hands will rise.

The purpose is not necessarily to obtain agreement. The purpose is to identify beliefs, priorities and attitudes that will later influence deliberations.

Scaled questioning techniques can make the point even more effectively.

Rather than forcing jurors into “yes” or “no” answers, counsel may ask jurors to place themselves on a scale.

For example:

“On a scale of 1 to 10, where 1 means a worker bears almost all responsibility for protecting himself, and 10 means the company bears almost all responsibility for maintaining safety, where would you place yourself?”

Scaled questioning accomplishes several objectives simultaneously.

First, it avoids simplistic answers.

Second, it forces jurors to think critically about competing obligations.

Third, it allows counsel to identify extremes, moderates and undecided jurors.

Fourth, and perhaps most importantly, it creates testimony from the jurors themselves that can later be used persuasively during summation.

Imagine one juror answers:

“I would say I’m about an 8. If a company hires a safety inspector, then that inspector should do the job properly.”

That answer becomes extraordinarily powerful during trial.

Weeks later during the trial an argument could be made as follows:

“Some people believe that if a company hires a safety inspector, that inspector should do the job properly. Isn’t that common sense? Of course! Isn’t that taking responsibility? Of course it is! That is the very definition of taking responsibility.

The evidence in this case demonstrated that the site safety inspector failed to do his job. The worksite was dirty, cluttered and unsafe. Debris was permitted to accumulate in the very area where workers were required to descend ladders carrying tools and equipment. Safety rules only matter if the people charged with enforcing them actually enforce them.

Responsibility means more than holding a title. Responsibility means doing the job.”

Conversely, defense counsel may focus on another juror’s response:

“I’m probably a 3. If you’ve worked on construction sites for years, you know you have to watch where you’re going.”

Again, the defense can later argue:

“From the very beginning of this case, some of you recognized an important truth: personal responsibility matters. The plaintiff had worked on construction sites for years. He understood the conditions. He understood the risks. The condition was open and obvious. Sometimes accidents occur not because someone else failed to act, but because a person failed to take the most basic precautions for his own safety.

Responsibility applies to everyone in the courtroom, including the plaintiff.”

These arguments become powerful because they are rooted in principles the jurors themselves discussed during voir dire.

Jurors are far more likely to embrace concepts they themselves articulated than concepts imposed upon them by lawyers.

That is the true bridge from voir dire to final argument.

The trial lawyer who effectively connects those stages creates continuity throughout trial. Jurors feel heard. More importantly, they feel ownership over the principles governing the case.

Scaled questioning can also be used to explore degrees of accountability.

For example:

“On a scale of 1 to 10, how strongly do you believe companies should be held accountable when safety rules are ignored?”

or:

“On a scale of 1 to 10, how strongly do you believe individuals must protect themselves even when others may also share responsibility?”

These questions do more than gather information. They require jurors to publicly commit themselves to principles.

That commitment can become enormously important during deliberations.

Psychologically, individuals tend to remain consistent with statements they voluntarily make publicly. Jurors who openly express strong beliefs regarding accountability often continue to embrace those same principles when evaluating the evidence.

Equally important is the follow-up question.

If a juror says “10,” counsel should ask:
“Tell me why.”

The answer frequently reveals life experiences that shape the juror’s worldview.

Perhaps the juror worked in construction.

Perhaps the juror supervised workers.

Perhaps the juror suffered an injury caused by unsafe conditions.

Perhaps the juror witnessed an avoidable accident.

The explanation often matters more than the number itself.

Another important technique is asking jurors whether responsibility can be shared.

Many jurors initially think in absolutes. They search for one wrongdoer and one innocent party. But many cases involve comparative fault.

Accordingly, counsel may ask:

“Can more than one person be responsible for causing an accident?”

or:

“Who believes responsibility is sometimes shared?”

Those questions prepare jurors for comparative negligence concepts long before the legal instructions are read.

Again, the answers become useful during summation.

The plaintiff may argue:

“From the beginning of this case many of you recognized that responsibility can be shared. The evidence showed the safety inspector failed to maintain safe conditions.”

The defense may respond:

“And many of you also recognized that people must take responsibility for their own actions. The plaintiff ignored an open and obvious condition.”

Importantly, effective voir dire requires genuine listening.

Too many lawyers approach jury selection with scripted speeches disguised as questions. Jurors recognize this immediately. They become guarded. The conversation becomes artificial.

The better approach is conversational.

The lawyer must genuinely listen to the answers and thoughtfully explore them.

Jurors know when a lawyer is truly interested in their perspective and when the lawyer is simply waiting for an opportunity to speak again.

The request for “brutal honesty” helps create this atmosphere because it signals authenticity. It tells jurors disagreement is acceptable. It tells jurors honesty is valued more than pleasing the lawyers.

Some of the most valuable jurors are those willing to express uncomfortable truths openly during jury selection. Those jurors often become leaders during deliberations.

Another important aspect of connecting voir dire to final argument involves repetition of language and themes.

Words introduced during jury selection should reappear throughout trial.

If the case theme involves “responsibility,” “accountability,” “safety,” “common sense,” or “doing the job properly,” those same phrases should consistently appear during opening statements, witness examinations and summation.

Consistency creates credibility.

Jurors become familiar with the concepts. The themes feel organic rather than manufactured.

For example, during cross-examination of the site safety inspector, plaintiff's counsel may ask:

"Your job was to inspect the site for dangerous conditions?"

"Your responsibility was to identify hazards?"

"Your responsibility was to ensure workers could safely perform their work?"

Those questions reinforce the exact concepts discussed during voir dire.

Likewise, defense counsel may cross-examine the plaintiff regarding years of construction experience, familiarity with cluttered worksites and awareness of the need to watch where he was stepping while descending the ladder.

Again, the same theme emerges:
personal responsibility.

By the time summation arrives, jurors should not feel they are hearing entirely new ideas. Instead, they should feel the lawyer is bringing the case full circle.

That is the power of the bridge from voir dire to final argument.

The strongest summations often sound less like argument and more like inevitable conclusions flowing directly from principles the jurors themselves accepted at the very beginning of trial.

Ultimately, cases are not decided solely through facts alone. Facts matter enormously, but facts gain persuasive force when connected to values jurors already believe are important.

Responsibility.

Accountability.

Fairness.

Honesty.

Common sense.

Those principles become most persuasive not when spoken by lawyers, but when spoken by jurors themselves during voir dire and then echoed throughout the trial until the final moments of summation.

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