

What is your jury thinking? What does your opposition know?

Are you as savvy as the jury you are going to pick for your next trial or perhaps, even more importantly, are you playing on the same level field as your opponent? For those of you who have seen my web 2.0 presentation, you understand the breadth of knowledge that is available on the web and know about tools available to you to filter out some of the “noise” online and how to search for information.

Last week I participated in a conference call with Adrian Dayton and Christine Martin of DecisionQuest, <http://bit.ly/1LXxYw>) a company that specializes in customized trial consulting and social media analysis. Martin explained you can analyze your case with traditional methods, but cautioned, “Don’t forget social media.” Many jurors are learning about you, the attorneys, and your case online. DecisionQuest is a company that will do a social media analysis report to get possible predictive information to determine jury characteristics, opinions, and attitudes.

Martin was asked during our conference call what sole practitioners, small-to-medium-sized law firms, or any attorney could do on their own without hiring an SM professional? I have distilled the information into five points that you can do with the free tools available on the web. The only thing it will cost is your time. My goal in writing this article is to start you thinking differently and with an open mind to what is happening.

1. Reputation Monitoring: Find out the reputation of your opponents, including counsel, parties, and witnesses (expert or otherwise). Use LinkedIn, Avvo, Google, and Twitter (via Tweetdeck) to monitor your case. Search to see if there are any blogs being written that talk about opinions and mindset of attorneys/witnesses.
2. Even though jurors are told not to research a case, you know they are going to do it anyway. Go to Wikipedia and look up definitions that are important to your case. Remember, Wikipedia is the Bible for many people in looking up definitions of terms or people or companies. There is a good chance a juror will use Google or Bing to define the “widget” that your case is about. It is important to understand what the jurors’ perception is.
3. Understand what is being said about your clients. You can use the tools described in Item No. 1 to research your client’s reputation.
4. Particularly with tech companies and pharmaceuticals, there are lots of employee message boards and now real-time information with Twitter and Google Wave that are very informative about the industry. Use Google, tags, and message boards.
5. Search the words “*jury duty*” on your Tweetdeck when choosing a jury. See if your juror is commenting on Twitter about his/her experience at that moment.

Martin emphasized that attorneys need to “work up” their cases in the traditional sense, but warned not to forget about social media. Martin says, “You will be ahead of your opponent if you are using SM to look at your case. Ignoring it can be very dangerous.”

I agree using a jury consultant, such as Christine Martin, would be the best method to analyze your case, but you or your client might not have the resources to go that route, and there is no reason you can’t use the tools described above to understand your case from a social media perspective.