



The Jury  
**EXPERT**  
*The Art and Science of Litigation Advocacy*

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## NOTE FROM THE EDITOR

### NEW POLITICAL LABELS, A NEW WORD (PREHABILITATION) AND NEW WAYS TO THINK ABOUT MANY THINGS

As we reach the dog days of summer and triple digit temperatures (and humidity pushing triple digits in some parts of the country), it's a perfect time to sit in air-conditioned comfort with an adult beverage and ponder the plethora of possibilities in this penultimate *Jury Expert* issue for 2014.

You've probably noticed that political labels/designations/self-reports have been shifting over the past while. In truth, they have been shifting for the past two decades and it is only now we can see that clearly. (Isn't hindsight wonderful?) Our lead article takes a close look at just how our identification of our own individual politics has shifted and coalesced into a much more complex picture than is painted by simple Democrat/Republican and conservative/liberal labels. What will it mean for voir dire? What should it mean for voir dire?

Speaking of voir dire, we have a new word in this issue of *The Jury Expert*: "prehabilitation". You know what that is—it happens when jurors are asked leading questions in voir dire as to whether they can be fair despite their admission of potentially biasing attitudes, values, beliefs or experiences. Prehabilitation. It has a nice ring to it—but this article is more about how to avoid prehabilitating than how to do it more often.

But once we get past voir dire, what happens in that jury box? As jurors listen to case narrative, how do they evaluate the despicableness of harmful acts? It isn't just what that horrible, awful person did—it's how the individual juror would feel if they imagine themselves doing what the accused did. We know our jurors often place themselves in the midst of a case narrative and this research has important ramifications for our day-to-day work in litigation advocacy.

And what if your defense involves the brain and how it functions or fritzes? You've probably seen the headlines about the CSI Effect being dead when it comes to jury decision-making. Those "pretty pictures" (aka neuro-images) of brains lighting up just aren't as persuasive as they originally were. But something is still seductively alluring about this whole area and you might be surprised at what still makes a difference in juror decision-making in these types of cases.

Other topics in this issue include how novel defenses are perceived by research participants and how what a juror does nonverbally (in terms of behavioral mimicry) might be of interest to you in predicting which side they favor at a particular point in time. And, speaking of novel, why not read about a new way of looking at jury selection from the perspective of game theory? Is there a way you can make those last strikes more effectively using a computer program?

So. This heat and humidity won't last forever. Fall is coming. Sit back. Put your feet up and peruse our virtual pages. As always, feel free to email me with topics you'd like to see in upcoming issues. We'll do our best to cover it!

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