

# JURY CONSULTANTS USING HANDWRITING IN AND OUT OF THE COURTROOM

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**Abstract:** There is a new trend to use jury consultants and handwriting examiners to provide an outside perspective to attorneys during a trial. Adding another dimension to the courtroom process, these experts are trained to study such factors as verbal and non-verbal behaviors, written communiqués, information derived from questionnaires and jury forms, focus groups, and mock trials, all to ascertain the personality dynamics of a jury. Assimilating how different personality types of the courtroom players – jurors, judges, witnesses, and attorneys – interact is becoming crucial in trial strategy. Jury consultants are making a significant impact on how many trials are being conducted in the expanding legal arena.

The most common use of handwriting examiners in the legal system is authenticating signatures and determining the identity of writers in cases of forgeries, fraud, embezzlement, and anonymous letters.

Well-known cases include the Lindbergh kidnapping, the Hitler diaries, the Howard Hughes' Will, the Nazi war trial in Israel of the Cleveland autoworker thought to be Ivan the Terrible, the ransom note for murdered child Jon Benet Ramsey, the foreboding anthrax letters, the menacing letters coming out of the caves in Afghanistan, and now the authenticity of a myriad of documents coming out of the Middle East. Add to these well-known cases the forensic programs in the media. All of these cases involved significant clues obtained from the use of forensic handwriting examiners to determine authenticity and the identity of the writers. Such document examination is familiar to attorneys, private investigators, and law enforcement agencies.

In the last two decades another classification of handwriting examiners has emerged in the courtrooms. Working closely with attorneys as jury and trial consultants, these unique analysts are skilled in interpreting handwriting and other forms of expressive behaviors in order to determine the personality characteristics of individuals in a legal environment. Personality profiles of prospective jurors and other courtroom players are prepared as part of the pre-trial, jury selection process and on-going courtroom drama.

Jury and trial observation are made from patterns of expressive behavior that the consultants recognize visually, verbally, physically, linguistically, and graphically through handwriting samples obtained in focus groups, mock trials, and actual courtroom settings.

Jury consultants played significant roles in the trials of O. J. Simpson, Rodney King, the Menendez brothers, and the earlier trials of Dr. Jack Kevorkian.

Most jury consultants have had experience with people in some aspect of the social sciences such as sociology or psychology, marketing or negotiating, linguistics or private investigating. Relatively few consultants have the additional expertise in handwriting examination.

Attorneys know the *law*. Jury or trial consultants know *people* and they use their various skills to discern whatever is possible that will benefit the attorneys and clients they serve. It appears that whatever specialists are chosen to provide outside perspective to attorneys during a trial, understanding the jury, lawyers, witnesses, experts, and other players in the judicial forum is now an essential part to gaining the winning edge in today's legal arena.

As specialists in written, verbal, and non-verbal communications, trained handwriting examiners are able to help attorneys maximize the advantage of pre-trial and courtroom insight. There is value in allowing a consultant to become familiar with a case long before a jury is selected.

With sufficient time, attorneys can be assisted in various ways by jury consultants who can support them by reading mediation summaries, discussing strategies, listening to opening arguments, and providing perspective on how these elements may influence different jurors. Jury graphics can be developed that underscore crucial points to better inform the jurors listening to a case.

Prospective jurors express themselves with their words, gestures, and body language, and through the written communications provided on the questionnaires in court and in the focus groups or mock trials. Some jurors are auditory and others are visual. Some individuals respond to information that affects feelings, others want just the facts.

Jury consultants using handwriting evaluations can usually recognize the differences between right- and left-brain thinking styles, pointing out the best way to communicate with possible jurors. Metaphors, pictures, and story lines appeal to more right-brained, intuitive, creative jurors. Facts, figures, and time-lines appeal to more left-brained, analytical, problem-solving jurors.

Long before a case reaches the courtroom, a jury consultant can contribute valuable information to attorneys by assisting them in establishing an ideal juror profile and fine-tuning the presentation of a case through a focus group or mock trial. The potential benefit for attorneys and their clients to gather information to help in their cases is invaluable and limited only by their imagination and resources.

The role of a jury consultant with handwriting expertise can be simply the evaluation of the questionnaires before and during the jury-selection process. The consultant may also oversee the coordination and facilitation of focus groups or mock jury projects where writing samples are obtained for future comparison to the writings and comments taken during actual juror selection, deliberations, and debriefings.

Figure 1 is an example of a form that is attached to a jury questionnaire. When marked it provides highlights and comments for attorneys that can be useful in choosing or keeping the juror best suited to their case. Identifying leadership is often crucial, as is recognizing those "wild" cards that can hang or disrupt a jury.



### JUROR PERSONAL HISTORY QUESTIONNAIRE

1. NAME: <b>JOHN P</b>					
2. WHAT IS YOUR OCCUPATION? <b>TEACHER COACH</b>		3. WHAT CITY, TOWNSHIP, OR VILLAGE DO YOU LIVE? <b>Now</b>		4. EMPLOYER'S NAME AND ADDRESS <b>Comm. Schools</b>	
7. WHAT OTHER OCCUPATIONS HAVE YOU HAD IN THE LAST 10 YEARS? <b>None</b>				5. DO YOU DRIVE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
9. HAVE YOU EVER BEEN AN OFFICE HOLDER FOR ANY STATE, COUNTY OR MUNICIPALITY OR HAVE YOU EVER BEEN A LAW ENFORCEMENT OFFICER? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, PLEASE SPECIFY.			8. CHECK IF YOU ARE <input type="checkbox"/> TENANT <input checked="" type="checkbox"/> PROPERTY OWNER <input type="checkbox"/> LANDLORD		
11. NAME OF SPOUSE <b>Teacher</b>			12. SPOUSE'S OCCUPATION <b>Comm. Schools</b>		13. EMPLOYER OF SPOUSE <b>Comm. Schools</b>
15. a. HAVE YOU, A FAMILY MEMBER OR A CLOSE FRIEND EVER BEEN IN A SERIOUS TRAFFIC ACCIDENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				b. WAS ALCOHOL INVOLVED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
16. HAVE YOU EVER BEEN A VICTIM, WITNESS, PLAINTIFF, OR DEFENDANT IN A CRIMINAL OR CIVIL SUIT? IF YES, EXPLAIN:				e. WHO WAS INJURED? <input type="checkbox"/> YOURSELF <input type="checkbox"/> FAMILY MEMBER(S) <input type="checkbox"/> OTHER(S) [	
17. HAVE YOU EVER BEEN CONVICTED OF A MISDEMEANOR OTHER THAN TRAFFIC VIOLATIONS? IF YES, EXPLAIN:				<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
18. HAVE YOU EVER BEEN CONVICTED OF A FELONY? IF YES: WHAT? IS IT PENDING?				<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
19. HAVE YOU EVER BEEN CONFINED IN ANY CORRECTIONAL FACILITY? IF YES, EXPLAIN:				<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
20. ARE THERE ANY SPECIAL ACCOMMODATIONS THE COURT NEEDS TO MAKE TO ASSIST YOU IN SERVING AS A JUROR? IF YES, PLEASE EXPLAIN THE ACCOMMODATIONS WHICH WOULD BE NECESSARY.				<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
I DECLARE THESE STATEMENTS ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.					
DATE: <b>5/10</b>		SIGNATURE: <i>[Signature]</i>			

Figure 2b: Juror questionnaire assessed as "Leader."

11. ARE YOU HISPANIC? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		Trade/Vocational School	
13. OCCUPATION (SEE NOTE ON REVERSE SIDE)			
ARE YOU NOW EMPLOYED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		ARE YOU A SALARIED EMPLOYEE OF THE U.S. GOVERNMENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
YOUR USUAL OCCUPATION, TRADE OR BUSINESS <b>Truck Driver</b>		SPOUSE'S OCCUPATION <b>Wife</b>	
YOUR EMPLOYER'S NAME		BUSINESS OR EMPLOYER'S ADDRESS	
16. SOCIAL SECURITY NUMBER			
<input type="checkbox"/> SINGLE <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED			
I declare under penalty of perjury that all answers are true and correct to the best of my knowledge and belief.			
SIGN HERE		DATE: <b>5-17-98</b>	
FROM		TO	
RETURN THIS FORM IN THE ENCLOSED ENVELOPE TO: UNITED STATES DISTRICT COURT		FOR OFFICIAL USE ONLY 1-QUALIFIED 3-EXCUSED 5-EXCLUDED 2-DISQUALIFIED 4-EXEMPT 6-OTHER	

Figure 2c: Juror questionnaire assessed as "Wild."

Jury Consultants Using Handwriting in and out of the Courtroom

Whether the check is  $\checkmark$  or  $\sqrt{\quad}$  or an "x" is X or X can make a difference between a leader and a follower, the rebel or the conformist, the generous and the thrifty. Figure 2 shows examples of questionnaires with various markings, numbers, and signatures that provide knowledge for the attorney when evaluated by a handwriting examiner working as a jury consultant.

Figure 3 is an example of a jury questionnaire marked with information to be used in the selection process. Questionnaires may vary from court to court and state to state. An attorney must have a judge's permission for him or his designees to view the questionnaires. Some courts allow copies to be made; others do not.

*Divorced  
No children  
Takes medicine  
for depression*

LEADER     FOLLOWER     WILD

-    3    2    1    0    1    2    3    +

*if ± leader*

Opinionated    *easily influenced,*     Open Minded    *out of instability*  
 Fact driven    *name, wants to*     Gut Feelings    *to stand her*  
 Stingy    *do the right thing*     Generous    *ground*

YES	NO	FOLLOWING APPLIES TO YOU NOTHING DISCLOSED WILL AFFECT YOUR SELECTION FOR JURY DUTY (SEE NOTE 10 ON REVERSE). <input type="checkbox"/> BLACK <input type="checkbox"/> NATIVE AMERICAN <input checked="" type="checkbox"/> WHITE <input type="checkbox"/> ASIAN <input type="checkbox"/> OTHER (SPECIFY) _____		SCHOOL In High School    3 Above High School    5 Trade/Vocational School    _____	A FULL-TIME PUBLIC OFFICIAL STATE, OR LOCAL GOVERNMENT OFFICE OR DIRECTLY APPOINT OFFICE.	
		11. ARE YOU HISPANIC? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			A FULL-TIME MEMBER OF ANY REGULAR FIRE DEPT. (NOT IN NONGOVERNMENTAL DEPARTM	
		13 OCCUPATION (SEE NOTE ON REVERSE SIDE)				A FULL-TIME MEMBER IN ACTV FORCES OF THE UNITED STATE
		ARE YOU NOW EMPLOYED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO ARE YOU A SALARIED EMPLOYEE OF THE U.S. GOVERNMENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO.		15 GROUNDS FOI		
		YOUR USUAL OCCUPATION, TRADE OR BUSINESS <i>Outpatient Clerk III</i>	SPOUSE'S OCCUPATION _____			PART 2 OF THE ATTACHED I DESCRIBES CERTAIN CATEGORIE EXCUSED BY THE COURT FROM I ARE A PERSON IN ONE OF THESE  TO BE EXCUSED WRITE THE NUM THE BOX. IF YOU ARE A PERSON HIES, BUT STILL WISH TO SERVE HERE. PERSONS SHOWING A C WHICH REQUIRES MORE INFORM OTHER SIDE UNDER "REMARKS
		YOUR EMPLOYER'S NAME <i>Medical Center</i>	BUSINESS OR EMPLOYER'S ADDRESS _____			
		16. SOCIAL SECURITY NUMBER* <i>48-4158</i>				
		<input type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input checked="" type="checkbox"/> SEPARATED OR DIVORCED				
I declare under penalty of perjury that all answers are true and correct to the best of my knowledge and belief						
		SIGN HERE <i>M.A. Sell</i> DATE <i>1-20-98</i>				

Figure 3: Juror questionnaire with assessment form above.

Figure 4 contains the signatures (whited out in part to protect identity) of seven jurors chosen by a plaintiff attorney who was given a warning, before the final selection was made, that a particular juror was problematic and would control and lead the others against his client in a medical malpractice case. Can you identify the juror who would have little sympathy for the client now in a wheel chair for life due to a doctor's error?<sup>2</sup> The plaintiff lost the case.

## FOCUS GROUPS

A jury consultant may also oversee preparations for a focus group or mock jury trial that can include but is not limited to: 1) recruiting the mock jurors who are demographically appropriate to a case; 2) selecting a site with appropriate audio-visual capabilities to record attorney presentations and mock juror deliberations for future review; 3) facilitating the mock trial; 4) preparing *voir-dire* questions; 5) assessing opening statements and closing arguments; 6) designing jury graphics to clarify significant points; and 7) ultimately creating the ideal juror profile by evaluating the writing and content of materials collected during the focus group.

The goal of a focus group is to gather information and in many cases find a way to resolve a legal conflict. It is also a way to fine-tune preparations and to identify types and thinking styles of jurors who may appear in the jury pool. By studying whatever handwriting, printing, or signatures are available, a handwriting examiner can usually identify the best way to reach jurors in actual trials. If requested, the jury consultant prepares a final written report that summarizes the results of the deliberations, the reactions, and the presentations. Whenever possible, handwritten communications and jury graphics are incorporated into the report that presents the case overview, portraits of the clients, themes for the trial, defense and plaintiff highlights both pro and con, suggestions for exhibits, language for the jury, and, most important of all, the ideal juror profile.

## PROFILES

Figures 5 and 6 are the handwritings of two attorneys, but they could as well be jurors. It is possible to identify the strengths and styles of each from these samples. Which attorney would best present the factual side of a case and which would present the more emotional side? Also shown with Figures 5 and 6 are the issues that each of these attorneys would present best in making statements in their case. Now, consider if the handwriting samples were those of jurors. A jury consultant would consider the issues that would influence each of them in different ways upon hearing the information. The principles remain the same. A factual person tends to be

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2 Referring to Figure 4, out of the seven jurors, the signature of Juror No. 4, stands out. This man is aggressive, critical, forceful, articulate, and demanding. A leader with attitude, he easily led the more passive jurors to a no-cause case because of his lack of sympathy with the plaintiff.

BOX #1	BOX #2	BOX #3
ELIZABETH No Information <i>Elizabeth A. Reed</i>	UT, D No Information <i>Thomas E. Reed</i>	THOMAS - HS Shop Worker - Spouse: Nurses Aid

Signature <i>Bill DeF...</i>	BOX #4	BOX #5	BOX #6	BOX #7
	ED HS & 2-yr. Analyst Spouse: Retired <i>Sharon A. De...</i>	, SHARON - Bus. College	, THERESA - HS Factory Worker - Spouse: Engineer <i>Theresa K. Long</i>	, LINDA No Information

Information, knowledge, and belief

*Theresa K. Long*

Figure 4: In a medical malpractice case, which juror had little sympathy for the patient and hung the jury against the plaintiff?

moved by rational argument; an emotional person is more swayed by the personal element.

Profile of Lead Counsel (Figure 5):

An original introvert (small size) and good strategist (precise and original), this attorney has an analytic mind (angles) and puts data in perspective (good spacing). He is original and innovative and is detached emotionally from the circumstances (wide spaces), so that an objective view is maintained (upright slant). A perfectionist, master of detail and facts, this man's style is clever, intelligent, cool, and unsentimental.

Articulate (interesting connections), insightful, and rational, this attorney is not satisfied until every stone has been turned over (hooks in lower zone). Few people really know this man because of the long hours he works behind the scene (wide spaces). He exerts a quiet will of iron over himself. He is resourceful, able to work alone (absence of lower zone), and does not suffer fools gladly. His anxiety and exacting standards add to his strong need for organization, accuracy, and control. Intensity and compulsion result in perfection and the potential for high achievement.

Profile of Co-Counsel (Figure 6):

Active, dynamic, and determined, this attorney is a convincing presenter who knows well how to charm and to challenge (forward slant, strong pressure). His aggressive persuasive style bears witness to his finely tuned interpersonal skills in swaying jurors with common sense and clever kindness (garland connections). Result oriented, creative, and adept at transforming abstract ideas into practical solutions, this man is tireless.

A "converted introvert," who adapts his more natural introspective tendencies into more extroverted behavior depending on the circumstances (large capital letter in signature), decision maker, and mental gymnast who likes events to happen quickly (speed in writing), he is impatient with incompetence (dashed I-dots). He thrives in difficult circumstances and has the energy to push himself to the limit. His high awareness level (fineness in line quality) allows him to maneuver his words and actions to get what he wants. This man demands a great deal of himself and others. Using his vast tactical skills, he would have a formidable courtroom presence.

This pair of attorneys is a powerful combination of tactics and strategy, passion and detachment, extrovert and introvert. Freedom and expression are important to Figure 6 while control and discipline mark Figure 5 success. Understanding each other's strengths allows these attorneys to take on any legal challenge and collaborate well together.

The attorneys in Figures 5 and 6 prepared and won a case that most attorneys would have turned down. They had to convince a jury that a repair garage was respon-



**The Jury Hears Final Arguments in Two Ways**

30 published studies, > 130,000 patients -  
(but his wasn't enough to keep contrary  
here, there a 6 studies, a few hundred

**Figure 5: Handwriting of Lead Counsel**

**Facts (Left-Brain Dominance)**

**Emphasis on issues that are:**

- Legal – the law
- Constitutional – rights
- Medical – physical conditions

then she was having the average physical emergency conditions by sleeping on floors at school

**Figure 6: Handwriting of Co-Counsel**

**Feelings (Right-Brain Dominance)**

**Emphasis on issues that are:**

- Personal – privacy
- Emotional – friendship
- Psychological – courage

sible for causing a life-threatening disease to the owner of the car after it caught on fire and resulted in her complete collapse. The jury was lead by a creative, right-brained printer who, with the other jurors, decided that based on the evidence presented it was possible that the traumatic event could have caused the health problem. Opposing counsel appealed the case to the higher courts, but their five-million-dollar verdict held. Knowing the personality of the most influential juror made all the difference.

