NEW MEXICO LAW REVIEW

Volume 31
Issue 1 *Tenth Circuit Judicial Conference (Winter 2001)*

Winter 2001

What Trial Judges Would Like to Say to Lawyers and What Lawyers Would Like to Say to Trial Judges

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WHAT TRIAL JUDGES WOULD LIKE TO SAY TO LAWYERS AND WHAT LAWYERS WOULD LIKE TO SAY TO TRIAL JUDGES

PANEL ONE
HONORABLE JOHN E. CONWAY*
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JUDGE CONWAY: We are going to talk about lawyers and things we like and do not like, and lawyers are going to talk about judges and things they like and do not like. So the first thing I would say is, I hate lawyers who are not on time. Despise them. You are to be on time. I cannot believe that when you have a motion to argue you are not in your seat fifteen minutes beforehand so you can think about the motion and what you are going to say.

When I was a young judge I held people in contempt if they were late for court. I would just say, "Do you want to have your contempt hearing now or next week?"

And they would say, "I would like to have it now."

Then I would say, "Okay. Why are you late?"

"Well, I just didn't get here on time."

"All right. You're in contempt of court." Then I would fine them.

Now I do not do that. Now I say, "Okay. You want to have a contempt hearing? Or do you want to send $100 to your favorite charity?" See, if you do that, it will do three things for you: it will make your charity feel good, it will make you feel good, and you will get a tax deduction. So that is normally what happens. But that just comes with a little bit of age on the bench.

It is a two-sided coin, though; judges are also late. I can remember when I was a lawyer; a judge would say we were going to start at nine o'clock. So you get there and then about nine forty-five, the bailiff would come in and say, "Are you all ready?"

And you think, "Well, what in the world do you think we've been doing in here? Yeah, we're ready."

I hate that. We get complaints about judges who are late. I am never late. Not unless I had a heart attack and then that slows me down, but other than that, I am on time because a jury expects you to be there, and if you are not, then that reflects badly on the judge. But I like lawyers to be on time. What do you think, Monti?

JUDGE BELOT: Yes. I do not want to disagree with you for fear of being held in contempt.

CONWAY: Go ahead, Andy.

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DEAN COATS: Okay. Let me give you a little background first, though. A lot of you are wondering why a law dean would be up here talking about problems that are special to trial practice and I have to give you a little insight. I have only been a law dean about four years. My problem these days is that the practicing lawyers think of me as a dean and the deans think of me as a practicing lawyer, so I am disadvantaged from both directions.

I hate judges who are late. And some of them are really late. Recently we had situations in state court where you would go in at nine o'clock and the hearing would finally get started at one or one-thirty. All of us are ready to go and are charging around and the judge is drinking coffee or visiting with his friends up and down the corridor. You would really like to get started, and it is hard to explain to clients why the hell we cannot start our case that was scheduled at nine. Thoughtfulness is important.

As some of you here that practice law in Oklahoma County will know, we had a state court judge who was worse. He would set the hearings at nine and if you were not there by quarter to nine, your motion was overruled. Some of you remember that judge and probably still have some scars up your backside from being in front of him; we all do. Promptness in the whole system makes it work better.

MR. SHANOR: I would just advise that you carry a lot of change because that way you can go slowly through the security and have an excuse when you get there late.

CONWAY: Well, in New Mexico we issue ID cards to the attorneys so when they come through the magnetometer, they just show their ID card and they can walk on through. That has probably been the most well-received thing we have done here.

BELOT: There is no way to cover all the things that need to be covered, and I am not sure, at least speaking for the Kansas lawyers who attend these conferences, that any of these things need to be covered too much. My impression is that if you are out here at this conference, you pretty much know what to do.

But I think that the main thing that I expect of lawyers is to be prepared, and I am most disappointed when they are not. There are so many aspects of being prepared that we could not cover them, even if we were here all day. But let me cover just one thing: I do not consider myself to be a trial judge. At least in the civil area, I am a summary judgment judge. In our court there are not many civil cases that ever go to trial. Lynn Johnson[1] had one, but the vast majority of them are either thrown out entirely at summary judgment or settled after summary judgment. What rubs me the wrong way is lawyers who aren't being prepared for summary judgment. To me, you get ready for that at the beginning of the case, not when you are responding to the summary judgment motion.

There is an old Tom Lehrer song that says, "Be prepared to hold your liquor pretty well. Don't write naughty words on walls that you can't spell."[2] And that is my other gripe. A lot of briefs that I get are really poorly written. They are not

1. Attorney at Law, Shamberg, Johnson & Bergman, Overland Park, Kansas.
2. Tom Lehrer, *Be Prepared, on* TOM LEHRER REVISITED (Reprise Record, 1990).

punctuated and the spelling is bad. I don't know about you, John, but I read the briefs. And when I get a brief that looks like it could have been better written by my nine-year-old son, I do not have much confidence in the lawyer's position.

CONWAY: Okay. Well, you heard from a couple of judges. Now let's hear from the other side of the coin—very briefly.

COATS: Following up on the Judge's point, I do think our submissions are important, and we like for the judges to read them. We spend a lot of time polishing and rewriting and working on briefs and submissions, and we think it really would be a good thing if the judges read them. Now, I understand you have clerks, and they go through the briefs for you. But it would be good sometimes for a judge to read a brief because you might pick up something the clerks did not.

I have a perfect example—a brief war story. I was representing the University of Oklahoma and the University of Georgia against the National Collegiate Athletic Conference. The National Collegiate Athletic Conference was going to enforce special sanctions against the big football schools that had signed a television agreement with NBC. We had a three-day hearing, a very important hearing, on getting a temporary injunction. Obviously, during that time we had to prove as part of our case that we would have a reasonable chance of success on the merits, and we briefed the issues very carefully. An order came down that was somewhat difficult to understand and we went on with the case. Then the judge recused. A local newspaper came and interviewed me about the case, and we talked about the facts and the antitrust aspects of the case. The article was published the following week. The week after that, the judge who had heard that hearing and who had received our submissions stopped me in the hall and said, "I read that article in the newspaper. You've really got a very good case." That indicated to me that he had not read one of the briefs that we had submitted.

So I do think that it is a matter of communication. We try to submit good briefs, and we hope that somebody up there pays attention to them.

SHANOR: Are we ready to move on to another topic? I knew that it was going to be somewhat dangerous for me to appear on this panel this morning, and I tried to figure out how I could insulate myself to some degree. So what I did was write letters to about seventy lawyers in the Tenth Circuit, and I received back responses. There are a number of individuals in this room who were kind enough to respond. I asked those lawyers to tell me what issues they thought were ones that would be worthwhile discussing here this morning. So none of these are my own ideas. They are the ideas of those of you who are in the audience.

I did get back quite a good response and right at the head of the list of things for discussion was the issue of voir dire examination. That was the issue that was mentioned the most by the lawyers that I heard from. The thrust of those comments was that judges should let lawyers do voir dire examinations without limitation or restraints that make it difficult for lawyers to carry out that task. The ideas expressed were that the voir dire examination is a time in the case where the lawyers know more about the case than the judge is going to know about it. The lawyer is going to be better able to ferret out the biases and other problems that may be involved with any particular jury. So at the top of the list is, "Judge, let me do voir dire examination."

CONWAY: Well, I am not going to let you. I will give you ten minutes after I have asked the questions that you submitted to me. In New Mexico we pick multiple juries. I have picked as many as six juries at the same time. I cannot have twelve attorneys taking up all the court's time. So I ask the questions. I then tell the attorneys that they can ask follow-up questions that will affect their case. To be very honest, a lot of attorneys do not have any idea what voir dire is all about. They just want to stand up there and talk. They do not focus in on what is going on.

So I am probably one of the judges that folks wrote about, but I just do not allow that. If it is a really complicated case, I might give you fifteen minutes, but no more than that, because I have already asked the questions and I am not interested in lawyers ingratiating themselves to the jury right off.

Now, you should realize that my remarks are in reference to what I am doing as a judge, not what I did as a lawyer. As a lawyer, I would take a day to pick a jury. Now we pick a jury in forty-five minutes or so, but no more. In New Mexico you have got to move on. We have too big a caseload and if you are trying criminal cases and you are picking three or four juries, once you ask the first set of questions, they are all pretty routine for the rest of the folks.

SHANOR: Well, let me just make two comments. First of all, you are not born a voir dire expert. It is an acquired skill. It takes practice and it takes spending a lot of time trying to develop those skills. The courts, not just the federal courts, but the state courts as well, have now handicapped the lawyers in their ability to develop the skills in voir dire because of the limitations that are placed upon the lawyers in doing that.

The second comment that I would make is that, in my experience, it is very difficult to ask bullet questions in voir dire after the judge has done a complete voir dire, if you can call it that, without having the opportunity for some preliminary discussions with the jury that would introduce the gut questions that need to be asked. So you need more time. If you want to call it foreplay or whatever you want to call it, there is a time there with the jury that you need to have to develop a rapport before you ask the very difficult questions.

COATS: I would like to follow up on that. We fought that battle for thirty years in our district and have never won. All the studies show that which jurors you put in the box is almost as important as what you tell them. It is very important to get a fair jury. The idea that you could get a jury by saying, "Can you all be fair?" and then "That's good, let's swear the jury," does not quite get it. We really would like to have time to do something.

At this point in time I am not asking you to open it up. I think all we are asking for is that, occasionally, in some cases, you let us have the chance to persuade you that some voir dire would be helpful and that it is an integral part of trial. Of course, it does sometimes keep us from removing cases to federal court, since more extensive voir dire is allowed in state courts.

CONWAY: Well, then we succeeded.

JUDGE FROM THE AUDIENCE: When I was on the bench, I tried cases in the federal court, and I found that the general routine that included, "Do you know anybody? Do you know the lawyers? Can you be fair?" is not fair to the litigants. I do not know how much other judges normally know about cases when they take the bench, but the lawyers know a lot more about them. There are certain biases and

prejudices that jurors have that the lawyers need to be able to ask about, especially in criminal cases. I do not care if it does take some time. You have got people sitting out there who are facing months and years in the penitentiary, and we should give them the time for voir dire.

In civil cases, I feel the same way. The lawyer, as long as they are not trying their case, but instead asking about qualifications, ought to be able to voir dire the jury. (Applause from the audience.)

CONWAY: A refreshing approach. There will be no clapping. On only two occasions in fifteen years did I relax and relent and let a lawyer conduct voir dire. I told him in advance that it was very unusual; I seldom did it. And I told him afterward, "Well, now I know why." Because it was abusive. It was ill organized. It was wandering and rambling and it really did not accomplish anything substantive, in my opinion, beyond my asking the questions that the lawyers submitted in their proposed voir dire. So, I think that at a minimum, the judge should cover the proposed voir dire unless there is some significant objection to a question.

BELOT: Well, two of the best lawyers in Kansas are sitting in this room today: Lynn Johnson and Bill Sampson.[3] I would like to hear what they have to say about this.

LYNN JOHNSON: Voir dire is one of my pet subjects. I have several questions of the judges. One is, have you thought about the constitutional right to trial by jury and whether, without a lawyer conducting voir dire, you are actually granting and giving a litigant that right? And with regard to the issue of the lawyer doing a bad job, maybe we should have the judges take over examination and cross-examination, if you think we are doing a bad job. I think voir dire is an essential, critical part of our system of civil justice and criminal justice, and to take it away from the litigants, I think, is infringing potentially on the constitutional right to trial by jury.

AUDIENCE MEMBER: Here, here.

LYNN JOHNSON: I think it is wrong, inappropriate, and I think it should be thought about.

CONWAY: That is why I give them the ten minutes. There will be no more "Here, heres" out there, either.

AUDIENCE MEMBER: What about the other gentleman?

BILL SAMPSON: I think that juries are not going to tell lawyers in two minutes or five minutes about themselves, about their experiences, about the emotions that they bring to the case, about the anxiety that they carry into the courtroom with them. You just have to be able to talk with them. In that amount of time, you cannot ask open-ended questions. More to the point, you cannot receive and really listen to responses from jurors who are trying to answer you in three minutes or five minutes. It just is not enough time.

There may be one person on that jury who really has a heavy heart about something. You may need ten minutes for that person and only get ten minutes for the whole panel. So, recognizing the pressures that are on the court, I would encourage some compromise upstream of ten minutes.

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3. Attorney at Law, Shook, Hardy and Bacon, L.L.P., Overland Park, Kansas.

BELOT: Here is the problem from my standpoint. You have the thoughtful guys who would not abuse voir dire, who would do a good job, and would come in prepared to do the voir dire examination that relates to their case. I would not have any problem with Lynn or Bob or many others like them doing it, but that has not been my experience in nine years.

Most people are not prepared. They do not know what they want to ask, and if you do not have some control over it, whether it is ten minutes or fifteen minutes or whatever, they do not get anything substantive. They may think they are getting something, but I talk to the jurors after the trial is over and they say, "Well, why were those lawyers asking those questions? Why did that lawyer ask that question fifteen times during voir dire?"

Also, if I say to Lynn Johnson, "You can have all the voir dire you want," then what about the next guy that comes along who I know will waste and abuse it? He will say, "Well, you let Lynn Johnson do it." What do I then say? Talk about equal protection. That will be the next case up in the Supreme Court.

CONWAY: We had an attorney in New Mexico who was representing either a Native American or Hispanic, and the question he wanted to ask the jury was, "Are you prejudiced?" And he went on and on and on and on. Finally one juror said, "Why don't you just ask us are we prejudiced?" And the jurors clapped. How would you like that in voir dire? So much for voir dire.

JUDGE THOMAS GREENE:[4] John, could I get in my pet peeve? It is lawyers who conduct direct examination as if they were taking a deposition.

CONWAY: Oh, yeah.

GREENE: That goes on all the time, and it is maddening to me and, I think, disturbing to the jury. Lawyers need to concentrate on learning how to ask a question on direct examination that will persuade somebody of something.

BELOT: But, Tom, don't you think maybe that is because most trial lawyers these days are really deposition lawyers?

GREENE: Yes.

BELOT: I had a lawyer not too long ago from a big law firm in Kansas City. He had been with that law firm for nine years and his first jury trial was in my court.

CONWAY: You talk to jurors after trial and they will say, "Why did the lawyer keep asking the same question? We got it the first time around." The jurors are listening.

You know, when I was a trial lawyer I would ask the question, I would get the answer I want, and I thought, "Boy, that's wonderful. I'll ask it again so they hear." Then I would come over here and ask the same question because I did not think the jurors understood. But they understand.

SHANOR: In my survey of lawyers in the circuit, there were a number of comments on how, apparently in a number of the districts, the jury instructions are given to the jury after closing arguments and the jurors are not permitted to take the written instructions to the jury room with them. There were a number of people who indicated that, comparing state court experience with federal court experience, they

4. Senior Judge, United States District Court, District of Utah.

prefer the instructions given before closing arguments and that the jurors be permitted to have the jury instructions.

CONWAY: Not a problem. I always read the instructions before closing arguments.

BELOT: So do I.

CONWAY: Except for the final one about, "Here's how you deliberate." But I always read them before.

JUDGE EDWARD NOTTINGHAM:[5] Do you want to hear a contrary view, gentlemen? I never instruct before closing arguments. The primary reason is because I think the judge is the last person the jury should hear from due to the principle of recency; he is the neutral person in the courtroom. If I hear somebody take advantage or do something unfair in closing arguments, I modify my jury instructions accordingly. I think it makes for better closing arguments. It makes for fairer closing arguments that are based on the evidence. I do not see why we should have a system in which the jury last hears from one of the advocates in the case. They ought to hear from the only neutral presence in the courtroom.

COATS: Do you permit lawyers to say, "We expect that the judge will instruct such and such," so they can comment on the instruction?

NOTTINGHAM: Absolutely. They can comment on the instructions. And I tell them in advance exactly what instructions will be given. That is what the rule requires.

GREENE: Well, I do a little hybrid of that. I give instructions and then we hear the arguments, but I save the last two or three instructions about electing the foreperson, and so on, just so I have the last word. It gives a little chance for everybody to cool off a little bit after a sometimes-impassioned closing argument. I think that works pretty well.

COATS: I think that one of the things that I have experienced some and that we have seen over the years is the lack of courtesy not only between lawyers, but also between judges and lawyers. Judges have enormous power. You put on a black robe and sit up there in a big courtroom, and you appear to be important. The people—the litigants and the lawyers—do not know any different.

It's unnecessary to really pound some poor devil into the ground because you don't agree with the argument he is making. All you have to do is say, "Overruled." Why dance him around and beat him up? Maybe that argument had to be made for his client. Maybe the case required that the argument be made. He probably did not like the argument much better than you do, but sometimes you have to get up and do it.

You know there is a wonderful story of a young lawyer from Dallas who was in Oklahoma City making an argument in front of a judge and the judge was just beating him up and beating him up. Finally, the judge says, "Incidentally, the last time we had arguments up here, your senior partner argued this case. Why did he send you?"

And the young lawyer said, "I didn't know, Judge, till about fifteen minutes ago."

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5. District Judge, United States District Court, District of Colorado.

I think courtesy is the lubricant that makes the whole system work, and I think it is really important that lawyers show courtesy and respect to the court, but I think the judge also has some responsibility to treat lawyers with some dignity. That goes for the clerks and bailiffs as well. Some of those people feel like they also wear the black robe, and they do not treat lawyers as well as they should. So I think you have to set an example and also preach to your other folks that courtesy is important.

SHANOR: Judge, corollary to what Andy said, several lawyers in my poll mentioned that there were a lot of distractions at the bench during witness examinations and during closing arguments or opening statements. Judges would talk to their law clerks and clerks would take phone calls during this time. The jury is distracted by all that. I am sure that it does not happen in any of the courts represented in this room, but I suggest to you that it is something that you do not think about, perhaps, and something that is very important to the lawyers who are on their feet doing the examination of witnesses and making arguments.

CONWAY: Going back to voir dire for just a second. There you have a lawyer ask the questions and the prospective juror will respond. The lawyer will then say, "Thank you for your honesty. Thank you for your candor."

What in the hell are they supposed to do? I mean, they are supposed to be telling you the truth. It sounds so dumb, "Oh, thank you for your honesty." Does that mean every time you do not say that to somebody during voir dire they are not being honest? You know, you are sitting up here listening and thinking, "That's a dumb thing to say." But they all do it. So knock it off! At least in my court.

AUDIENCE MEMBER: Judge Conway, I have to disagree with that just a little bit.

CONWAY: He is from New Mexico. I'm taking notes.

AUDIENCE MEMBER: Well, before I responded, I reviewed my mental list of the cases I have in your court and I do not have any. I think when a lawyer has an opportunity to voir dire a juror on a particularly sensitive item, I do believe that it is appropriate at that time to thank the juror for their candor in exposing and talking about something that may be very personal to that juror and very sensitive. I am not suggesting you should do that every time you are asking a question of a juror, but I do think there are times when it is appropriate.

CONWAY: Well, okay, we disagree. You could say, "I appreciate your answer," or something like that, but why thank them for their honesty or their candor when that is what they are supposed to be doing?

NOTTINGHAM: Can I say something on voir dire? I think there is a position between the position lawyers take and the position Judge Conway reflects. With the burden of an enormous caseload, you are definitely going to have to pick multiple juries at once. You cannot afford the luxury of wasting time.

I agree with the lawyers that you need to take some time to ferret this out. I do not think that you require a lawyer in voir dire. You can have the lawyers submit a list of questions. You can study those questions in advance. If you have been a trial lawyer, you can ask those questions and follow-up questions the same way they would.

The reason that I think voir dire is important is the same reason I give the instructions last: primacy and recency. I don't want the jury to hear first from somebody who is an advocate in the case and who is interested in prevailing. I want

them to hear first from the person who is neutral in the courtroom. My conclusion about lawyers on voir dire is that it is inevitable, almost inevitable, that it will be an effort to ingratiate the lawyer to the jury and to conduct, in effect, an opening statement. I think the jury ought to hear first from the neutral person in the courtroom, and the judge is that neutral person. The jury also ought to hear last from the neutral person in the courtroom.

AUDIENCE MEMBER: There is an adjunct to what Judge Nottingham is saying and that is, if the judges are going to assume the role of conducting the voir dire, the judge better do a good job of it. If you do not do it in a way that is careful and neutral to select a fair jury that is qualified to sit, you are not doing the system and you are not doing the litigants any good. If you are going to do it, assume the role, do it right.

AUDIENCE MEMBER: Why can't we assume that both sides are right? What Lynn says is right, the Constitution really does require enough time to get the job done properly. Why can't we also assume that there is not a judge in this room who is not perfectly capable of sorting out the Lynn Johnsons from the dorks and do something about those people. There are many times in voir dire where you do see a lawyer doing a bad job and the judge just sits there and does nothing.

I am not sure it is fair for the judges to blame the lawyers for not doing a good job when they are not willing to step in and make the distinction. The word is going to get around right away that if you're not ready for voir dire, that judge is going to shut you down.

BELOT: Yes, but most lawyers are sensitive about a judge interrupting them and saying something like, "You know, we've heard that. Let's move on." There is somebody sitting in the front row, who I used to work for, who is a pro at saying that in a way that I do not think is offensive, but I do not think that I am capable of doing that. Word would get around: "Oh, Belot? He likes Lynn Johnson better than somebody else." So what is the answer, Lynn? I mean, do I put a fifteen-minute time limit on it? Do I put a thirty-minute limit on it? How do I do it?

JOHNSON: One of my concerns is rules that seem to be established for the lowest common denominator lawyer/litigant. In other words, it is my impression that the courts establish rules, whether it be voir dire rules or a variety of other rules, for the lowest common denominator litigant who is going to appear in front of them. I do not think that is fair or appropriate for the cases I handle or the cases anyone else here in this room handles. These are important cases and important litigation, and the court should not establish rules that prevent the litigants from having a full and fair opportunity in an adversarial system. This is an adversarial system of justice; this is not a neutral system of justice. To establish these rules that penalize our clients in a way that does not allow them to have full and fair opportunity to have a jury that is completely devoid as much as possible of bias and prejudice is just not right. That is why I am so hung up on the voir dire issue.

BELOT: But, Lynn, it is adversarial from your point of view, but from our point of view it is neutral.

JOHNSON: I understand that. But the system that we have depends upon the adversarial skill of each attorney for each litigant, with the judge controlling that, but controlling it in a way that does not interfere with the right to trial by a jury and with the right to have the truth come out.

AUDIENCE MEMBER: I would suggest thirty to sixty minutes to each lawyer be imposed. I think that within those parameters you can call balls and strikes and have control. If the lawyer wants to get up there and is not prepared and asks stupid, open-ended questions and makes a horse's ass out of himself, well, God bless him. A good lawyer can do the voir dire in thirty minutes to an hour, and I think even over in the state system in Colorado, where I practice, most lawyers are not doing more than thirty minutes to an hour.

What I did want to comment on is the empathy that I see missing somewhat from some of the judges on the panel. I mean, this is a hard-ass business we are all in, and there are so many motions that have to be filed. There is so much paperwork. To make a buck at it, you have to have such a huge caseload.

You know, the plaintiffs' lawyers bitch with some justification about defense lawyers. And defense lawyers bitch with some justification about the sleazy plaintiffs' lawyers. We all bitch about judges who are not on time. On the other hand, the lawyers do not have a lot of empathy for you guys in terms of how much you have on your plate and how many cases you have. But once you get to the trial and the dispositive motions like the summary judgments, that is really important and we ought to have a little leeway.

You ought to understand that when we are trying cases that last two days, three days, five days, or ten days, you say some stupid stuff. Just give us a little empathy and say, "Gee, I know you're trying to do a good job."

CONWAY: Well, sitting directly behind you is Steve McCue, who is the federal public defender in New Mexico. If every federal judge were to write down the three best criminal lawyers in the state, he would be on everybody's list. I had him and his client in court on Wednesday on a competency hearing. Steve came up to the podium with his client, who looks like Charles Manson and who has been accused of burning down some abortion clinics, and says, "Your Honor, we're here for...."

Then his client says, "Just a minute. Just a minute. I want to say something." And he says, "F you."

And then, through Steve's guidance, the hearing went on further.

AUDIENCE MEMBER: So how about trying to come up with a solution instead of just exchanging prejudices? Instead of trying to have one-rule, one-size-fits-all, why not at the final status conference lay out what is going to apply to this case? If you have experienced lawyers who you know are not going to screw up voir dire, give them a little more latitude. If you have inexperienced counsel who you think is going to waste a lot of time, lay it on the line to him and say, "I'm not going to let you do what you did last time you were in here."

And then the other system I like is when the judge does the first part of the voir dire and gets rid of all the general questions. That way, of course I am usually defense counsel, the plaintiff's lawyer does not get to do all that, and I do not have to repeat it. I think a system like that works best, frankly, and then the lawyers still have an opportunity to zero in on those jury persons that they suspect are harboring an undisclosed prejudice.

JUDGE WESLEY BROWN:[6] I think we all overlook something when we are talking about lawyers and judges. The judge is not looking at the lawyer; he is looking at the lawyer's client. That is the first thing. Who is entitled to the fair trial? I ask the lawyers to submit their proposed questions, and any questions that I do not cover sufficiently, they are going to be given an opportunity to ask during voir dire. Each case is a different case. The thing that the judge sitting up there has to do, regardless of anybody else, is to ensure that everybody has a fair trial.

6. Senior Judge, United States District Court, District of Kansas.