



Noelle Nelson

The challenge of celebrity clients

The plaintiff attorney's challenge is to have the jury focus on the facts, not the celebrity

When a celebrity enters the courtroom, whether it's Michael Jackson, Phil Spector, Robert Blake, Oscar Pistorius or a host of others who have found themselves part of high profile trials over the years, things change. Try as they might, jurors and lawyers alike often find it difficult to ignore the celebrity's fame and look beyond the celebrity's public persona.

People, generally speaking, have complicated feelings about celebrities: they adore and over-value them on one hand while being jealous of their apparently charmed, extravagant, or at the very least, unusual lifestyle on the other. It is virtually impossible for jurors (and lawyers) to completely divorce themselves from their pre-determined opinion and feelings about a celebrity. This poses a big challenge for attorneys with celebrity clients.

Voir dire

During voir dire, jurors may not always be forthcoming about their feelings towards a celebrity. They may say they can be unbiased when in fact, they cannot. To get to the truth, attorneys must pay close attention not only to juror vocal responses, but also to their body language. For example, during questions involving the celebrity, observe if jurors fold their arms across their body, indicating defensiveness, or in this case, probable dislike of the celebrity. Do prospective jurors sit or lean forward in their chair during questioning about the celebrity? If so, these actions most likely indicate heightened interest in the celebrity.

Observe if jurors seem to "preen" in the presence of the celebrity; fuss with their hair or clothing or sit up straight. A juror who wants to look good in the presence of the celebrity may favor the

celebrity. However, in the normal course of events, when the celebrity gives this juror no special attention, the juror may feel "rebuffed" and may eventually turn against the celebrity.

A truly untainted "good guy" or "good gal" celebrity persona can work in the celebrity's favor. It may be very difficult for jurors to believe such a terrific individual, who supports good works and is never in the tabloids, could possibly do something nefarious. However, the same caveat as above applies: jurors who seem overly invested in the celebrity's fame or capturing the celebrity's attention are potential "wild cards."

Prospective jurors who do not react verbally or physically when discussing or viewing a celebrity client are most likely not going to let the celebrity status of the client to get in the way of their duties.

Lead by example

When attorneys face a popular celebrity at trial, it is important to discuss the celebrity's status with prospective jurors and encourage them to regard the celebrity as a person first, a celebrity second. This being said, much of how jurors regard the celebrity is predicated on how the attorneys treat the celebrity.

It's been 20 years since the O.J. Simpson criminal trial but it still provides valuable lessons on how not to try a case against a celebrity. During the trial, to some, prosecutors seemed almost apologetic to jurors for having to subject them to a horrendous case against such a famous football great. This is not a winning attitude, and some say, compromised their case.

At other times, an attorney may show disdain of a celebrity, such as when a boomer attorney cross examines a twenty-something rapper, deliberately using vocabulary or syntax designed to

show off the attorney's assumed education or intellect. Jurors may be offended by such cavalier treatment of someone they or their family may hold in considerable regard.

Celebrities should be accorded the same respect lawyers would give any other client or witness, no more, no less. Yet in our society, celebrities have been cloaked with an almost otherworldly or larger-than-life aura that even high-powered attorneys, used to the "rich and famous," are susceptible. Attorneys should mentally practice treating the celebrity with ordinary courtesy so neither their body language nor their words express either fawning or disdain, however subtly. This is true not only during voir dire, but at all times during trial.

Attorneys set the tone. The more the attorneys attend to business and do not focus on the celebrity's status, the more jurors will treat the celebrity and all proceedings appropriately and without undue bias. The more attorneys cater to the celebrity, the more they risk jurors either imitating the behavior or resenting it.

The media

Along with celebrities comes the media. During voir dire, make sure prospective jurors are comfortable with the possibility of fending off paparazzi on their way to and from the courthouse. Reassure jurors that TV cameras are not allowed to tape jurors while in court.

Jurors observe attorneys at all times, both in and out of trial. Because of this, attorneys must remain calm and cool around a celebrity. Attorneys cannot behave one way in the presence of the jurors, and then a different manner a few steps from the courtroom in front of the media and television cameras. Those that do will immediately lose credibility with

jurors who may no longer trust what the attorney says in the courtroom.

Working with the client

Convincing a celebrity to prep for trial may take some doing. Celebrities are often used to and expect deferential treatment. Celebrities must understand that it is in their best interest not to expect such treatment in the courtroom. On the contrary, the more straightforward, unassuming and genuine the celebrity is, the more favor he or she will have in the eyes of jurors. Encourage the celebrity to sit comfortably but respectfully, with good posture, at counsel table. Since the jury will naturally want to see how the celebrity reacts at trial, slouching, bored looks, vague mutterings and other inappropriate expressions and mannerisms must be avoided.

Whether sitting at counsel table or on the stand, celebrities must be discouraged from “playing” to the jurors, to the judge or to anyone else. Since “playing” may be second nature to the celebrity, sufficient time must be devoted in trial preparation so he or she feels comfortable in a non-performance role. Celebrities may believe they have no need for witness preparation for their depositions and trial testimony. Not true. The celebrity must understand that, like it or not, jurors will consciously or unconsciously assign greater importance to a celebrity’s (versus a non-celebrity’s) every utterance and gesture.

Use of focus groups

Focus groups are extremely useful to help the attorney assess the favor or disfavor of the celebrity within the jury pool from which jurors will be drawn. A focus group conducted for this purpose must be carefully designed so that confidentiality is dealt with appropriately, much as you would with a protective order. The results of the focus group will help determine the effect of the celebrity on the jury and how to shape trial strategy.

Knowledge of how the celebrity will likely be perceived by jurors and

maintaining appropriate decorum during trial are critical to the success of these cases.

Noelle C. Nelson, Ph.D. is a Los Angeles-based trial consultant with over 20 years of experience. She provides trial/jury strategy, and conducts witness preparation and focus groups for attorneys. Her published works include “A Winning Case” (Prentice Hall), “Connecting With Your Client” (American Bar Association) and the booklet, “101 Winning Tips: How to Give a Good Deposition and Testify Well in Court.” www.dr.noellenelson.com, awinningtip.blogspot.com, e-mail: nnelson@dr.noellenelson.com.



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