



My number was finally called

TAKEAWAYS AND OBSERVATIONS FROM MY FIRST JURY TRIAL

This past July, I tried a childhood sex-abuse case before Judge John Kralik in the Burbank Courthouse of the Los Angeles Superior Court. After a three-week trial, the jury returned with a verdict for our clients. To be brutally honest, my ego wishes I was writing about how this was my 100th trial and was merely sharing a seasoned trial attorney's tips and tricks that will lead to a successful verdict.

But that is not my reality. In fact, this was my very first jury trial since I began practicing law in 2016. I have been reluctant to admit this to my peers, as if this was something to be ashamed of, but the truth of the matter is that I have been eager to try a case, but my number had simply not been called until recently.

I can imagine many of my colleagues who read this magazine have varying levels of trial experience. I also suspect there are many readers who do not possess trial experience and who have upcoming trials, or would like to try cases in the near future. I present this article to share my takeaways from this remarkable experience with the hope of addressing some of my cohorts' questions, fears, or general curiosity as they anticipate their first jury trials.

Believe in your case

Perhaps the biggest factor for me in trying this case was my motivation to do right by my clients. My clients are two adult brothers who were repeatedly sexually abused by their adult cousin when they were minors. I met my clients in 2018 and have maintained constant contact with them up to this very day.

This was partly because of the nature of the case – this was a highly fact-intensive case and there had been a lot of hard-fought litigation that required my clients' participation. In these ongoing communications with my clients, I have gotten to know them on a personal level,

including understanding what they had been exposed to, what they suffered and what they continue to undergo as a result of the sexual abuse. This organically resulted in more than an attorney-client relationship for me and my clients; I truly view them as my friends – friends who I believe in, friends who I care about, friends who I want to do right by.

A jury trial is such a crazy emotional roller coaster. This relationship with my clients, and desire to right the wrongs done to them was the extra inspiration to push through all of the terrifying and physically and emotionally demanding aspects of trial. Since we filed this case, it has regularly been on my mind, but as trial approached, I began to eat, breathe, and sweat this case. It was inescapable for me. Notwithstanding the demands the trial put on me, I had to remind myself that this trial was not about me; it was about my clients. They kept a dark secret for the majority of their lives and when they made the revelation of the sexual abuse they suffered, they were humiliated, doubted, and attacked.

This trial was my clients' chance to be vindicated by 12 strangers. Irrespective of this opportunity, I could tell how humiliating and frightening it was for them to share their deepest, darkest secret with these strangers. Because of my staunch belief in my clients' case, I felt eager and obligated to guide them through this process, be their voice, and be their champion.

Know your case

Knowing the facts of your case and the legal theories you need to prove is essential. As a result of my constant and close relationship with my clients, the facts of their case became second nature by the time of trial and made it easier to know and understand what we needed to do to carry our burden of proof. This reduced trepidation and made it easier for me to not only

prepare for voir dire, opening, and examination, but to also intelligently improvise on the fly (or so I thought). I found there were many occasions during the trial that required quick adaptation and it's my understanding this is not uncommon.

More importantly, knowing your case instills confidence in your clients. It also shows the jurors you are taking the case seriously and believe in your client's cause. For example, after this trial concluded, I spoke with one of the jurors outside of the courthouse who commented on how she was really impressed by how well we knew the facts of our case, especially in comparison to the defense.

Surround yourself with a good team

I don't believe this verdict would have been possible without the guidance and assistance from my support staff and my mentors, Hermez Moreno and Ray Boucher. Hermez and I tried the case together. Hermez has been trying cases for nearly four decades and was my trial advocacy professor in law school. To be able to sit next to someone with that amount of courtroom experience at the plaintiffs' table was invaluable. Any time I had a question or needed assistance with preparing trial materials, he was ready and willing to help me without hesitation. It was also powerful and motivating to see the professor move about the courtroom in such brilliant fashion at various stages during the trial. This display of a seasoned professional instilled faith and motivated me to be better.

Moreover, Ray Boucher, the founding partner of the firm who has tried over 50 cases to verdict, was integral to this outcome. When trial would conclude for the day, Ray was always available to recap and strategize for the next day.

Because of the demands of my own case load and scheduling conflicts, I had never watched a trial from beginning

to end before this one. I strongly recommend that my colleagues who are anticipating their first trial consider co-counseling with another attorney who has substantial trial experience. I gather this will not be difficult as there is certainly no shortage of excellent talent here. I also suggest that first-timers go watch some trials when the opportunity presents itself!

Fear of the unknown

During my legal career I have had my fair share of litigation experience, but the lack of exposure to a full jury trial was cause for some concern. I felt as if I was going into a dark tunnel to try this case. Even simple procedural things like how to pay jury fees or how to introduce an exhibit caused me stress, because I had never done them before. In the lead-up to and during the early stages of the trial, I was very conscious of not giving the impression to the judge, courtroom staff, and the jurors that this was my first trial and that I didn't know what I was doing. However, my mentors' advice and reassurance, and my diligent preparation helped quell this anxiety. As the days progressed and I became more familiar with the process, the fear of the unknown slowly dissipated.

Expect the unexpected

Things did not go as planned. For starters, this trial was expected to go four to five days, tops. Instead, it lasted three weeks, with approximately three days of voir dire. Part of the reason the jury selection process took so long was because, apart from the general hardships presented by potential jurors, many potential jurors knew someone close to them who had been sexually abused or they themselves had been sexually abused, which resulted in the dismissal of many potential jurors and multiple rounds of new potential jurors being brought into the courtroom.

This was a grim reminder of the prevalence of sex abuse in our society and why it was so important for us to try this case. Overall, voir dire in this case was a

bleak and unsettling process. People were very reluctant to talk about childhood sex abuse irrespective of whether they had personal experience with the subject. This made it more challenging for me to get a conversation going and really get a grasp of where they stood on certain issues.

Before the trial, I had devised a list containing the order of witnesses I intended to present for my case in chief. I had a general idea of when I anticipated calling these individuals to testify but due to the aforementioned longer-than-anticipated jury-selection process, my witnesses would be testifying on different days than originally planned.

This became problematic because – believe it or not – witnesses' lives do not revolve around trial. We had a few witnesses who were flying in from out of state so we had to be considerate of the time and expense of their travel. This ultimately resulted in shifting the original order of witnesses, as we had to revise in such a way that was strategically best for the case and that was also accommodating to the witnesses' schedules.

In that vein, there were also witnesses whom we anticipated would testify but ultimately did not for one reason or another. In future trials, I intend on securing witnesses much earlier and providing broader time frames in which they might testify.

Additionally, it should be noted that motion practice does not end with the motions in limine. In this case there were highly contested evidentiary issues that were brought up throughout the course of the trial and we had to be ready to engage in further motion practice on these issues in the moment.

Prepare your case with trial in mind

This might be somewhat elementary for many, but after reflecting on this experience, I could have done a better job preparing the case for trial from the outset. This is not to say the case was not worked up or developed – far from that. The case was actually litigated quite thoroughly, with substantial written discovery, depositions, and motion practice.

What I mean by “better job” is I could have been more conscious in propounding discovery or taking depositions with the big picture of trial in mind. Often, it's hard to think this way because most cases do not make it to trial. But I believe litigating cases with trial in mind will maximize the value of our cases irrespective of whether they resolve before trial or by verdict.

Since this trial, I have made a more deliberate effort of developing and updating witness lists, exhibit lists, jury instructions, opening statement outlines, etc., so as to avoid cramming at the eve of trial and allow myself to focus more on other aspects of trial such as motions in limine.

On the flip side to this, I felt I needed to have my outlines for voir dire, opening statement, direct examinations, and closing argument finalized before trial began. However, this was unrealistic because of simple time constraints and also because of the fluidity of trial. So many things happen from the morning to afternoon session and from one day to the next, that these outlines will inevitably change. Use the hours before and after court to work on outlines, motions or additional witness prep.

The ultimate balancing act

A jury trial is the ultimate balancing act. In one aspect, I had to be prepared to perform my trial-related tasks and be ready to confer with my co-counsel Hermez. I also had to be conscious that I was sitting only a few feet away from the jury in the courtroom and would likely cross paths with them in the courthouse or the restaurant across the street.

Although I was not allowed to communicate with the jurors, I got the sense there would always be eyes on me. My actions were representative of my clients and any missteps would be imputed to them. Thus, it was integral that I conducted myself in a professional manner at all times.

Another component to this balancing act was my duty to be emotionally present for my clients at all times. I felt it was

important to be ready to answer their questions, explain what was happening, or be generally available to chat and be a friend. It was admittedly taxing to keep composure while performing this balancing act. Nevertheless, the constant reminder that this trial was one of the most, if not the most stressful and consequential events of my clients' lives made it achievable.

It's not all doom and gloom

The awful subject matter of this case left little room for smiles for three weeks. However, from a professional standpoint, and with the end goal of obtaining a favorable result for our clients in mind, the execution of our trial-related tasks was extremely gratifying. It wasn't until this trial that I truly appreciated the privilege and power we have as attorneys to provide justice for our clients.

This dawned upon me while I was giving my opening statement, which was the first time the jurors heard the raw facts of our case. As I was telling the jury

the evidence they would be presented with, the courtroom turned silent and all eyes were locked on my clients and me. The details were undoubtedly horrific and not easy to convey.

But hesitation was not an option. My clients needed the jury to hear their story presented with the utmost confidence and there was no one in a better position to tell it other than me. It was tremendously motivating to know that after years of litigation we were finally able to convey our clients' story to people who would make a decision of consequence, and I was reminded of this every time I got to speak before the court, and especially when the jury returned a verdict for our clients. After years of anguish my clients were finally vindicated. It was truly one of the most amazing experiences I have ever had, and I am so grateful and honored to be my clients' advocate.

Conclusion

This jury trial was arguably one of the most terrifying, demanding, and

yet rewarding experiences of my life. Although I learned so much during this trial, I know there is considerably more room for improvement in my capacity as a trial advocate. As to my first-timer colleagues, I hope that this article provides some takeaways that will ease some nerves and perhaps provide some semblance of guidance on what to expect in their first jury trial.

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