



Postcards From A Jury

by John D. Whitaker

Since 2001 Wyoming courts have permitted jurors in civil cases to ask questions of the witnesses. Prior to that time the jurors had to just sit there and hope the attorneys asked the questions necessary for them to make an informed decision about how the case should come out. Now, each time the attorneys finish their examination of a witness, the jurors are permitted to submit written questions to the judge. If the judge thinks that the questions are proper he asks the witness the questions. This is truly a fascinating process for the lawyers involved and it allows the jury to actively participate in the process.

We just finished trying a jury trial this last week here in Casper, and as we were going through the jury selection process I asked the potential jurors if they liked to watch lawyer shows on TV. I was surprised to see that almost everyone said they did, and it was obvious that most of them really enjoyed these programs. After the case began, I don't remember ever seeing a jury more involved in a case. It was like we had seven extra lawyers in the case.

The process is pretty simple. After the lawyers finish their questions of a witness, the judge asks the jurors if they have any questions. The jurors all have notebooks, and each juror must hand the clerk a piece of paper, who then delivers them to the judge. The judge then separates the papers with questions from those without questions so that the lawyers can't tell who was asking the questions.

The judge then brings the lawyers up to the bench and reads the questions to the lawyers to see if they have legal objections to the questions. If a question is improper under the rules of evidence the judge will disregard it, but if the question is proper he will then ask the witness to answer the question. The lawyers are then given an opportunity to follow up on the answers.



Once a trial begins the lawyers have always been prohibited from having any contact with the jury. Before the rule was changed, the lawyers would frequently speculate on what they might be thinking. This is a part of trying cases that can drive a lawyer nuts. Wow, did you see that juror in the second row raise his eyebrow? What did that mean? Does he think the witness is lying or that the lawyer just asked an idiotic question? Does the fact that all the jurors in the front row have their legs crossed mean that they don't like your client and that you are going to lose the case, or does it just mean that they need a restroom break? As lawyers, we get a sense of

how the jury is looking at the case, but reading tea leaves can sometimes provide more accurate information.

With the jury asking questions, we actually get to focus on areas that someone on the jury thinks is important. In our case last week there were a number of great questions that came from the jury. Not only the questions they asked, but how they phrased the questions provided a lot of information to the lawyers.

This process also had the effect of keeping the jury interested in what everyone was saying. During most of the testimony the jury was scribbling notes like mad. I don't think there was one witness that testified that did not get a good question from the jury. I have never seen a jury pay more attention to the testimony than this jury. They were involved from the beginning of the case, and it was clear that they were paying very careful attention to the evidence.

Several weeks ago a trial had to be continued because enough jurors didn't show up. When I heard about this I thought it was a pretty sad commentary on how our community viewed the legal system. I was wrong. The jury that showed up for our case included a group of very busy people who enthusiastically gave us their time and extraordinary effort to provide justice. Wow!

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise. This informative column is brought to you by John Whitaker who practices personal injury and criminal law throughout Wyoming. He can be reached at JDWTL@aol.com or by calling his office in Casper at 265-6204.