

# Voir Dire: *Finding Your Enemies On The Panel*



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*Voir Dire:*  
*Finding Your Enemies On The Panel*

- Know your judge and jurisdiction
- You've got to get them to talk
  - Be yourself
  - Listen, and relate to what they are saying
  - Don't be afraid to tell the jury that your case isn't perfect



## *Voir Dire:*

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- “[T]he primary purpose of voir dire is to inquire about specific views that would prevent or substantially impair jurors from performing their duty in accordance with their instructions and oath.” *Hyundai Motor Co. v. Vasquez*, 189 S.W.3d 743, 749 (Tex. 2006).
- “[T]rial courts should allow broad latitude to counsel to discover any bias or prejudice by the potential jurors so that peremptory challenges may be intelligently exercised.” *Id.*
- “[B]ias’ generally relates to inclinations, while ‘prejudice’ is associated with prejudgment. *Id.*

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- “It is improper to ask prospective jurors what their verdict would be if certain facts were proved.” *Hyundai Motor Co. v. Vasquez*, 189 S.W.3d 743, 749 (Tex. 2006).
- An inquiry into the weight a juror would give a relevant piece of evidence raises similar concerns. *Id.* “A trial court does not abuse its discretion in refusing to allow questions that seek to determine the weight to be given (or not to be given) a particular fact or set of relevant facts.” *Id.*

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- While you cannot “pre-test” evidence, you need to spend your time on your areas of concern
- Don’t be afraid to raise problems in your case
- Encourage others who may have similar views to speak out



## *Voir Dire: Finding Your Enemies On The Panel*

- Employment Cases Have Lots Of Areas To Discuss
  - The role of HR
  - People's feelings about companies in general
  - The difference between unfair and illegal terminations
  - Family members involved in employment suits



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- Drill down on bias.
- It's not where a juror starts in terms of bias, it's where a juror will end up. *Hafi v. Baker*, 164 S.W.3d 383, 385 (Tex. 2005).



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- Winning “cause” findings means not having to waste a peremptory challenge
- Use leading questions to get to where you want to go.
  - “could not guarantee”
  - “won’t be able to ignore your feelings”
  - “even if you try to be fair”
  - “I have no doubt that you would try your best to be fair, but would you agree with me that you would still probably have a difficult time ignoring your feelings in this case?”
- These come from Harry Plotkin.  
[www.yournextjury.com](http://www.yournextjury.com)



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