

The 80/20 Principle in Jury Selection

After listening to voir dire in a product liability case, we identified our three peremptory “Must Strikes” –let’s call them Ms. Not-Good, Ms. Even-Worse, and Mr. Disaster.

Our client raised concerns about a fourth juror, Ms. Sorta-Bad, who he wanted to strike instead of Mr. Disaster. His reasoning was that Mr. Disaster had also expressed views suggesting he may be open to some of our defenses, and so he might be an asset to us in deliberations.

Although, Ms. Sorta-Bad had expressed views that were unfavorable for our client, we felt she had not “earned” one of our few peremptory strikes, but Mr. Disaster had. Why?

Leaving Mr. Disaster on the jury was risky as he expressed **more negative views** than positive ones, AND he had demonstrated **significant leadership potential**. In contrast, Ms. Sorta-Bad harbored **some negative attitudes**, but was fairly “**mousy**” in her demeanor, and therefore unlikely to be a driving force on the jury.

We ultimately convinced the client we could probably live with Ms. Sorta-Bad, but Mr. Disaster had to go. We weren’t confident he’d tip in our favor—and if he tipped against us, **he’d surely take people with him**.

Moral of the story:

Pay attention to a dangerous juror’s leadership potential when using peremptory strikes. A strong leader that turns against you can take the jury to places you don’t want to go.

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Prepare to Win.

