



Stack And Sway: The New Science Of Jury Consulting

Neil J. Kressel, Dorit F. Kressel

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A new - and largely hidden - profession has emerged during the past three decades. Drawing on the techniques of modern social science, psychology, and market research, its practitioners seek to remake the way we pursue justice in the United States. Trial consultants help lawyers to pick – some would say, stack – juries predisposed to render the “right” verdict. And consultants apply sophisticated research methods to predict how jurors are likely to respond to arguments, witnesses, and evidence. Based on the results of the research, they craft case strategies, help to prepare witnesses, and test and retest arguments – all before a single word is uttered in open court. For fees that sometimes approach six, or even seven, figures, the new jury experts offer attorneys and their clients what they most desire – a way to remove uncertainty. What are we to make of this new industry? Do the techniques work? Is this, as some critics have argued, a new form of high-tech jury-rigging, not much more acceptable than cruder forms of jury tampering? Or do the methods of jury consultants amount to little more than an extension of what attorneys have always done? One thing is clear. The profession is growing steadily. Jury consultants have already made their mark in big-money civil cases. And they have played key roles in prominent criminal trials. After hearing jurors acquit in the O. J. Simpson case, the first person thanked by defense attorney Johnnie Cochran was his jury expert. The burgeoning of the trial consulting industry seems destined to continue. During the past few years, firms have started to offer low-cost consultations, sometimes conducting research for as little as \$2000 per case. For better or worse, the wares of the trial consultant are now within the reach of many who previously deemed them too expensive. When a new trade roams the halls of our legal system, aspiring to change America’s road to justice, we had all best pay attention. This book will reveal the “tricks of the trade” and explore the many ways in which trial consultants have infiltrated the courtroom. The authors -- a social psychologist and an attorney -- present cases where consultants arguably have been responsible for huge jury awards and controversial criminal verdicts. However, it is not their purpose to launch an all-out attack on this growing industry. Instead, they aim to pull back the curtains, allowing a fair and balanced assessment of a new phenomenon in American justice. To achieve this objective, the authors must address issues that lie at the very heart of the American jury system. Are juries fickle? Are they easily swayed? Are jurors influenced – as many have charged – by their age, gender, race, ethnicity, occupation, intellect, personality, or politics? Here, the authors sort through the work of many jury researchers, arriving at conclusions that are balanced and credible. They conclude with sensible and far-reaching proposals for change.

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