

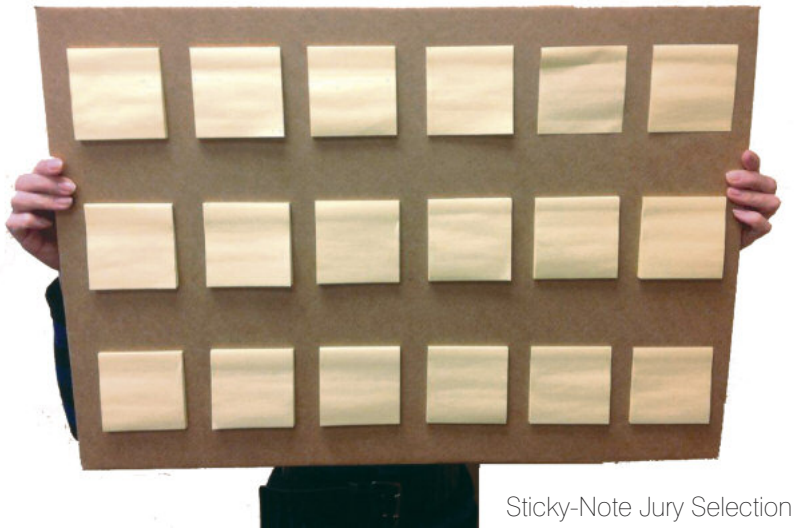
FEBRUARY 2013

Getting your iPad to help with voir dire

We compare old-school voir dire aids with the latest jury-selection apps and find they can be complementary

By William Veen and Jennifer de la Campa

As trial lawyers, we spend significant amounts of time paying attention to the substance of jury voir dire without considering the process through which we accomplish that jury selection. We assume that our old, tried-and-true jury questionnaire, together with our sticky-note system is the safest, if not the best. But today, the technology that has taken over the courtroom is now encroaching upon the jury selection process. There are new applications that claim to aid the trial lawyer in voir dire. We review them here to see how they compare and contrast to the old-school system of questionnaire and sticky notes.



Sticky-Note Jury Selection Board

Before delving into the ins and outs of each method, we first ask ourselves what we are looking for in a jury selection method in general. Consider the purpose of voir dire: to pick a jury you believe will be the fairest for your client's case. During voir dire, the overarching goal is to connect with the jury and maintain that connection.

To accomplish this, you need a selection system that allows you to have eye contact and develop a rapport with your potential jurors. You will want something that is fast, efficient and seamless — something that will not be cumbersome as you are trying to engage the jury pool.

Old-school voir dire aids

There are those who say that voir dire is an art, not a science. They are skeptical as to whether an iPad app (or a

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PC-based application) can aid in this process. Some of the tried-and-true voir dire practices include:

• **Hire a jury consultant** – A social scientist to help you select the jury.
• **Run a focus group** – Then tailor your voir dire to the issues that arise during your focus group.
• **Submit a jury questionnaire** – A questionnaire allows you to obtain detailed information for each potential juror that you otherwise may not have time to get during voir dire itself. Review the questionnaires with other lawyers in your firm.
• **Use sticky notes** – Make sure you have a board with 18 spots (12 jurors and 6 alternates) of sticky-note pads big. As jurors are interchanged, you can easily pull off the sticky note and write a new name.
• **Have a second chair** – Another set of eyes and ears to take notes and pay attention to jurors' reactions that may have been missed by lead counsel. Second chair also keeps track of challenges.

The new school apps

Most of the voir dire apps have a few features in common, including:

• Sharing juror information with colleagues, your jury consultant, or your legal assistant instantly from the courtroom. This you cannot do with your legal pad and stickies.
• Keeping track of challenges and cause dismissals.
• Replacing the sticky notes. With most apps, you can easily change jury box configurations and you can include many more notes about a juror than you can fit on a paper sticky note. Many apps allow you to color-code your jurors by preference so you can quickly see which jurors are right for your case.

In looking at the apps, we wanted something fast, efficient and seamless; we reviewed each application with six criteria:

1) How many jurors can be entered and tracked?

2) How easily is juror information recorded?

3) Can jurors be ranked?

4) Can voir dire questions be entered?

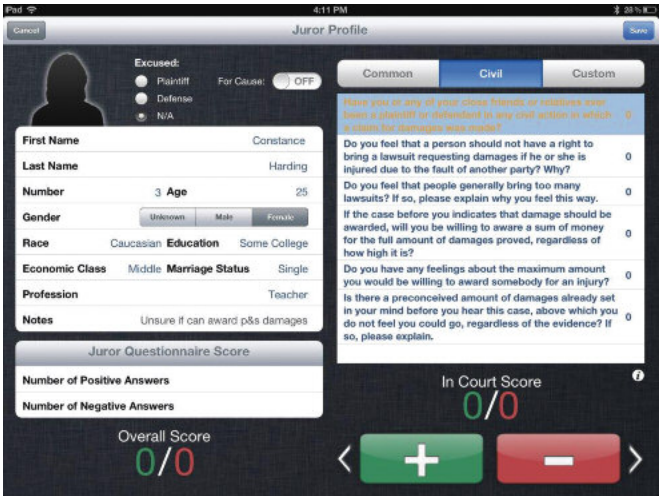
5) Does it track peremptory challenges?

6) Does it produce a report that can be shared?

iJury

$14.99

• Number of Jurors – Unlimited.
• Recording Information – Easy to record information because it offers pop-ups.
• Sharing Information – Produces reports that you can e-mail.



iJury incorporates voir dire questions very well

• Ranking Information – Allows you to score jurors. Based on rank, jurors appear as green or red, male or female avatars. It has the ability to group-score as well.
• Voir Dire Questions – Has many good pre-set questions and allows you to write your own.
• Keeps Track of Peremptory Challenges – Yes. Keeps track by side, and those excused for cause.

Comments: This is the only iPad application we found that attempts to fully incorporate voir dire questions into the selection process. While good in theory, you do not want to be reading from your notes while conducting voir dire. Your second chair should be keeping track on the iPad. You may not always be asking the same questions in the same order as the application, so ultimately we questioned the efficiency of this program for our purposes.

Jury Tracker

$4.99

• Number of Jurors – Only allows you to pick 12 jurors and four alternates at a time.
• Recording Information – Has a flip screen to record juror information, which we found to be on the slower side.
• Sharing Information – Allows you to e-mail reports about the jurors in different formats (text, Excel, or pdf).
• Ranking Information – Allows you to enter information on juror emotions, color-code your jurors with flags, mark whether they are a follower or leader, and predict whether they are plaintiff or defense oriented or questionable.
• Voir Dire Questions – Does not incorporate any voir dire questions.
• Keeps Track of Peremptory Challenges – No.

Comments: We liked the concept of this iPad app with its incorporation of juror emotions but we believe it would be cumbersome at trial.

iJuror

$19.99

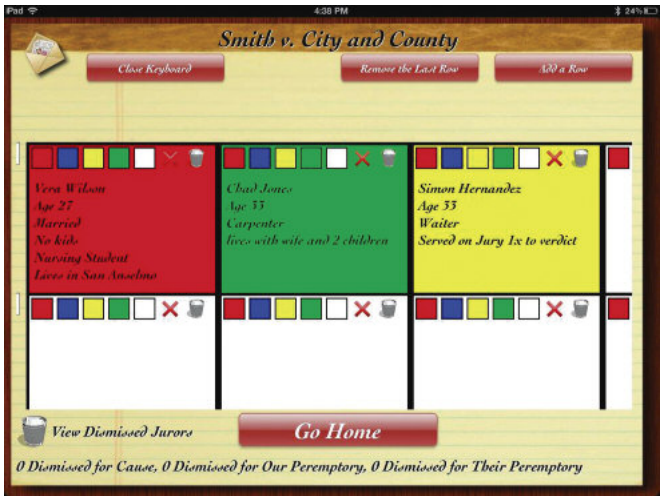
• Number of Jurors – This application allows up to 78 jurors in your jury pool, 12 in your jury box and six alternates.

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iJurorConnect is a cloud-based program



iJuror Stickies is a very basic voir dire app

• Recording Information – To enter information about a juror all you have to do is tap on the square and fields pop up. All of the avatars look the same on screen, but it does state their names on the avatar itself and their juror number.
• Sharing Information – It allows you to export to Dropbox and iTunes/iCloud, as well as e-mail selected jurors' information.
• Ranking Information – You can rate your jurors by like (green), dislike (red), maybe (yellow), or don't know (white), and the avatars reflect the color you chose.
• Voir Dire Questions – You have the ability to customize only three question fields.
• Keeps Track of Peremptory Challenges – Keeps track of peremptory challenges, as well as jurors dismissed for cause.

Comments: This iPad application was overall pretty user-friendly and efficient. The second chair can enter information quickly and easily. An interesting feature is a link to search Spokeo.com, Pipl.com, LinkedIn.com, and Google for more information on each juror.

iJuror Connect

$29.99-$139.99 per month depending on number of users

iJuror Connect is from the same company that sells the iJuror iPad app, but is a Web-based platform. This appears to be the only cloud-based program at present.
• Number of Jurors – Up to 150 in your jury pool, 12 jurors, and six alternates.
• Recording Information – Easy to enter information by clicking on a seat. For juror categories such as marital status, a pop-down menu allows for fast selection. It also allows you to edit multiple jurors at once. The avatars are either male or female, and you can distinguish them by additional fields as well.
• Sharing Information – This is the best feature of this application. Because it is cloud-based, others outside the courtoom can immediately access the information. Imagine the possibilities!
• Ranking Information – Jurors are ranked by color with green (like), red (dislike), yellow (maybe), and white (don't know).
• Voir Dire Questions – Allows you to customize questions and makes it easy to enter answers.
• Keeps Track of Peremptory Challenges – Keeps track by party, for cause and otherwise.

Comments: We found this Web-based program fast, easy and efficient to use. We loved the fact that anyone from anywhere can access the information, so you are not limited to one user or to your iPad. We can see multiple uses for such a feature. You can have your staff and jury consultant researching jury information while you are still in the courtroom. We tested the program out, and when there are multiple users, it updates virtually instantaneously.

Finally, as with the iPad application, you can research additional information on Spokeo.com, Pipl.com, LinkedIn.com, and Google.

iJuror Stickies

$4.99
• Number of Jurors – Unlimited. It is easy to clear the information in the square with the X button, so that you can type in new information about your next juror.

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Jury Pad is a contender

• Recording Information – To enter information you simply tap on the square. There is not a lot of space for each juror so you have to be brief.
• Sharing Information – You can e-mail a list of your jurors.
• Ranking Information – You can also color code the squares according to preference – i.e. red, blue, yellow, green, white.
• Voir Dire Questions – Does not incorporate any voir dire.
• Keeps Track of Peremptory Challenges – Keeps track by party and for cause.

Comments: This iPad app is very basic and closely resembles the sticky-note method of jury selection, but without the paper notes. You can continue to add rows of sticky notes, depending upon the size of your jury pool. For the price, you are getting a good value for this simple, yet effective program.

Jury Duty

$39.99
• Number of Jurors – You can make the jury box as large or as small as you want.
• Recording Information – This is a little tedious as there are no pop-up menus.
• Sharing Information – You are only able to share a report regarding challenges and cause dismissals. This app has a Bluetooth feature to connect one iPad to another and share information but we were unable to get it to work.
• Ranking Information – There is no color coding for jurors; they are all blue squares with juror numbers.
• Voir Dire Questions – You can enter topics and check off as they are asked of each juror, but there is no way to record the particular response.
• Keeps Track of Peremptory Challenges – Keeps track of challenges but does not remove them from your jury box, which we found rather odd.

Comments: For the price, a bit too basic and not as user-friendly as the others.

Jury Pad

$19.99
• Number of Jurors – Unlimited.
• Recording Information – Entering jury information is easy as many categories simply pop up and you tap to enter the information. There is plenty of space to enter notes for each juror as well.
• Sharing Information – Allows you to share jury pool information via e-mail by sending text or a spreadsheet.
• Ranking Information – You can rate your jurors by either one to three stars or one to five stars.
• Voir Dire Questions – It does not have any voir dire, but the makers have promised this in the next version.
• Keeps Track of Peremptory Challenges – It keeps track of how many are left for each side. Jurors are marked with either an X if challenged, or a check if seated.

Comments: This iPad app was a contender for use by us during trial. We were lucky to be able to talk to the developer, who promised much more from this already decent app in future versions.

Jury Star

$39.99
• Number of Jurors – Can enter information for 3,025 jurors, but you cannot configure your jury box according to the actual seating chart.
• Recording Information – We found it tedious to enter information as you have a different, much smaller screen that pops up for each juror and you must remember to tap "done" when finished entering data.
• Sharing Information – It has no sharing ability that we could find.
• Ranking Information – It allows you to rate each question from -5 to +5 for each juror.
• Voir Dire Questions – You can load your topics and questions into the application.
• Keeps Track of Peremptory Challenges – Track each side's challenges, as well those jurors dismissed for cause.

Comments: We could not get the orientation of the page to rotate on the iPad, so we could not easily use this application with a standard, horizontally-aligned, iPad wireless keyboard. Interestingly, no other keyboard popped up to enter information, so you are left with empty notes fields. Navigation was cumbersome. We could not see ourselves able to use this easily during trial.

Some final observations

Clearly, none of these applications can take the place of a good jury consultant. Many of them can be used as a tool to assist your jury consultant. In fact, if you do not want your jury consultant in the courtroom, for whatever reason, you can e-mail the jury statistics for their review and immediate feedback.

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Likewise, an app cannot take the place of a focus group. After your focus group you can load your tailored questions into some of these apps and even weigh the responses.

A jury questionnaire is still vital in any trial; given the time constraints in today's trials, there is no substitute. You can take the information from the questionnaires and load it into the apps so that you have all of the information in one place. This seems very useful and efficient.

Finally, there is absolutely no substitute for courtroom instinct. These apps can assist your decision by culling all of the information, but they cannot replace having a conversation and creating a dialogue with the jurors — establishing a safe place for them to express their true feelings about your case.

And now, a few words of caution. As with any new technology, you must be sufficiently familiar with it prior to taking it to trial. Practice, practice, practice well in advance of your trial date. Second, make sure that you have a back-up in the event of a meltdown. A second iPad or laptop loaded with the app for sure, but also good-old-fashion, sticky-note pads. And keep those completed jury questionnaires in your briefcase at trial in the event your apps fail or the Internet connection goes down. Redundancy is a key to the successful use of any technology in the courtroom.


Veen

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