
CASE IDENTIFICATION:

*State Bar of Texas Juror
Comprehension Field Testing of
Pattern Jury Charges*

JURY SIMULATION REPORT

EXECUTIVE SUMMARY

The State Bar of Texas commissioned Jason Bloom and Courtroom Sciences, Inc. to field-test juror comprehension of Pattern Jury Charges and Admonitory Instructions. Trial simulations using a fictitious case fact pattern were conducted on April 25-26, 2006 at Courtroom Sciences' mock courtroom facilities in Irving, TX.

The first simulation (Project A) used existing PJC's (Version A) and the second simulation (Project B) used a modified version (Version B). The modified version was an attempt by the committee to plain language the existing version. The research team and committee were interested in determining juror comprehension of existing PJC's as well as whether the comprehension levels would increase if a modified, or plain language, version was used instead. Surveys were used to measure the correct response rate of True/False/Don't Know questions based on the PJC's and jury instructions. Additionally, a trailer question was added after each survey item to reveal why a research participant chose an answer, or essentially, how the information was learned (i.e. hearing it from the Judge, guessing, or common sense).

The protocol for each project can be found on the Schedule on pp. 3-4 to this report. A copy of Version A and B of the PJC's, Admonitory Instructions and Charge to the Court (PJC 1.3/1.8 and Verdict Form with Instructions) can be found in the Appendix to this report. The surveys administered after each can be found in the Appendix as well. The raw data gathered from the simulations can be found in Tables 1-10 of the Data Section to this report.

The field-testing research indicates that Version B was rated significantly higher with regards to the following criteria:

- Understandability - PJC 1.1 and PJC 1.3;
- Clarity - PJC 1.3;
- Easiness to Follow - PJC 1.1;
- Makes Sense – PJC 1.1.

Based on examining levels of comprehension using correct-response rates to True/False survey items, the field-testing research reveals the following:

- Version B revealed higher correct response rates and thus was better at instructing the following concepts:
 - Civil action;
 - Number of jurors selected;
 - Secret evidence;
 - Discussion of the case by jurors;
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- Unanimous;
- A finding is based on multiple elements (e.g. fraud).
- Within both Version A and Version B, there is a need for improved definitions of the following concepts:
 - Unanimous;
 - Preponderance of the evidence;
 - Role of the presiding juror;
 - Distinction between preponderance of the evidence and beyond a reasonable doubt;
 - Proximate cause;
 - Instances where a finding is based on multiple elements being met (e.g. fraud);
 - Instructions for the certificates at the end of the jury charge.
- For both Version A and Version B, mock jurors who chose incorrect responses attribute their answers to hearing the instructions read by the Judge regarding the following concepts:
 - Sympathy;
 - Unanimous;
 - Circumstantial evidence;
 - Purpose of deliberations;
 - Trading answers in deliberations;
 - Level of allowable interaction with lawyers, witnesses or parties during trial;
 - Preponderance of the Evidence.

Specific results and data can be found in the Data and Analysis sections to this report.

Recommendations:

Based on the results of this study, the following improvements are suggested:

- Separate verdict form and jury instructions documents, with a copy of the instructions given to each juror to use during deliberations, and only one copy of the verdict form given to the panel;
 - The use of “...;and” after each element in the jury instructions when a verdict interrogatory requires that all elements be met in order to find for the party with the burden of proof;
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- The use of language that such as: “All of the following elements must be met in order to find for the plaintiff” to precede the list of elements in the jury instructions;
 - Instructions that specifically talk about the number of votes in terms of “a required number” such as 10-2 and 12-0, rather than using “unanimous” and instructions regarding making an attempt to get to the required number of votes and what to do if it is not reached (i.e. when to quit or give up);
 - One certificate at the end of the verdict form with a blank for each juror to sign it to simply acknowledge agreement with the answers to the interrogatories;
 - Improved instructions on disregarding attorney’s fees and insurance from damage awards. The public is aware of these factors and must be discouraged from instilling them into deliberations;
 - Improved instructions pertaining to the resolution of damages to dissuade jurors from using a quotient verdict. The instruction should include language detailing that agreement by the jury is more significant than averages, which would be disregarded by the Court;
 - A definition of “preponderance of the evidence” that distinguishes the burden of proof in a civil action from one in a criminal action, so as to illustrate that multiple standards do exist.
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RESEARCH PROTOCOL

CSI's field testing research consisted of 2 trial simulations on April 25 and April 26, 2006, designed to test juror comprehension of Pattern Jury Charges and in particular, the Admonitory Instructions in 226a

Particular care was conducted to assure that juror demographics for the jury simulations were congruent with a Dallas jury panel. Relevant demographic domains researched by CSI staff include:

- | | |
|--------------------------|--|
| ▪ Geographical Location | ▪ Ethnic Distribution |
| ▪ Educational Background | ▪ Median Family Income |
| ▪ County Population | ▪ Political Affiliation |
| ▪ City Population | ▪ Religious Affiliation |
| ▪ Cultural Facilities | ▪ Labor Analysis |
| ▪ Employment Rate | ▪ Organized Labor Analysis |
| ▪ Manufacturing Analysis | ▪ Retail, Wholesale and Trade Analysis |

Additional qualitative and quantitative analysis of the Dallas jury pool identified common psychological denominators that assured similar moral, social and political tenets for the particular jurors chosen to participate in this jury simulation.

The mock jurors completed a CSI Demographic Questionnaire, signed a confidentiality statement, and were screened for conflicts prior to being seated. The jurors were presided over by CSI staff, who reviewed juror responsibility, confidentiality, and role functions that were carried out during the jury simulation. A CSI staff facilitator, acting as Judge, presented the Admonitory Instructions to the mock jurors.

Upon completion of each Admonitory Instruction, mock jurors were asked to complete a filler task and then a survey testing comprehension of the instructions previously recited by the Judge.

Following the attorney presentations and Admonitory Instructions, the mock jurors were divided into four separate juries to deliberate over designated questions in a modified jury charge.

Jurors deliberated for approximately 45 minutes. Following deliberations, jurors were merged for a focus group discussion to further elicit and clarify their opinions and thought processes pertaining to the Admonitory Instructions, and instructions used to deliberate the case.

PROJECT INFORMATION

The Project Information part of the Jury Simulation Report includes the following:

- Schedule
- Demographics

Jury Simulation Schedule – Project A

State Bar of Texas Juror Comprehension Field Testing of Pattern Jury Charges

April 25, 2006

		hr:min
11:00 AM	Jurors Arrive/Orientation	2:00
1:00 PM	Call to order - Judge Reads PJC1.1	0:05
1:05 PM	BREAK (Filler Task)	0:05
1:10 PM	PJC 1.1 Juror Comprehension Questionnaire (orange)	0:10
1:20 PM	Mock Voir Dire conducted by Attorneys	0:10
1:30 PM	Judge reads PJC 1.2	0:10
1:40 PM	BREAK (Filler Task)	0:05
1:45 PM	PJC 1.2 Juror Comprehension Questionnaire (pink)	0:10
1:55 PM	Stipulated Facts	0:05
2:00 PM	Plaintiff: Summary Presentation of Evidence	0:30
2:30 PM	BREAK	0:20
2:50 PM	Defendant: Summary Presentation of Evidence	0:30
3:20 PM	Judge Reads PJC 1.3	0:25
3:45 PM	BREAK (Filler Task)	0:05
3:50 PM	PJC 1.3 Juror Comprehension Questionnaire (purple)	0:10
4:00 PM	Deliberations	0:45
4:45 PM	Verdict Form Comprehension Questionnaire	0:15
5:00 PM	Jury Instruction Confusion Study	0:15
5:15 PM	Focus Group	0:30
5:45 PM	DISMISS	

Jury Simulation Schedule – Project B

State Bar of Texas Juror Comprehension Field Testing of Pattern Jury Charges

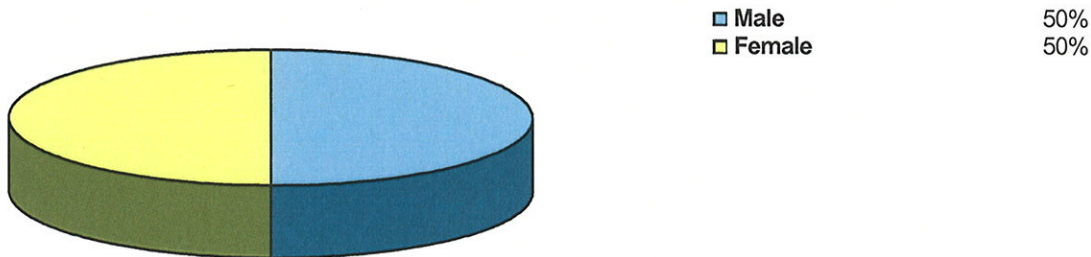
April 26, 2006

		hr:min
7:00 AM	Jurors Arrive/Orientation	2:00
9:00 AM	Call to Order - Judge Reads PJC 1.1	0:05
9:05 AM	BREAK (Filler Task)	0:05
9:10 AM	PJC 1.1 Juror Comprehension Questionnaire (orange)	0:10
9:20 AM	Mock Voir Dire conducted by Attorneys	0:10
9:30 AM	Judge Reads PJC 1.2	0:10
9:40 AM	BREAK (Filler Task)	0:05
9:45 AM	PJC 1.2 Juror Comprehension Questionnaire (pink)	0:10
9:55 AM	Stipulated Facts	0:05
10:00 AM	Plaintiff: Summary Presentation of Evidence	0:30
10:30 AM	BREAK	0:15
10:45 AM	Defendant: Summary Presentation of Evidence	0:30
11:15 AM	LUNCH	0:45
12:00 PM	Judge Reads PJC 1.3	0:25
12:25 PM	BREAK (Filler Task)	0:05
12:30 PM	PJC 1.3 Juror Comprehension Questionnaire (purple)	0:10
12:40 PM	Deliberations	0:45
1:25 PM	Verdict Form Comprehension Questionnaire	0:15
1:40 PM	Jury Instruction Confusion Study	0:15
1:55 PM	Focus Group	0:30
2:25 PM	DISMISS	

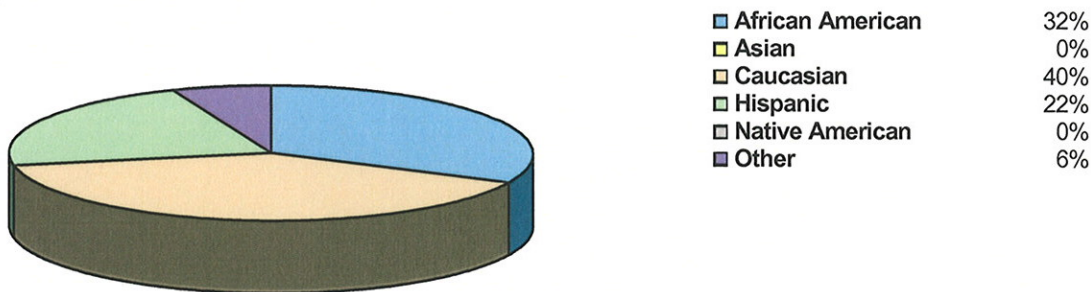
Demographics – Project A

Fifty (50) mock jurors were selected to participate in this jury simulation. The jurors were categorized along the following demographic dimensions:

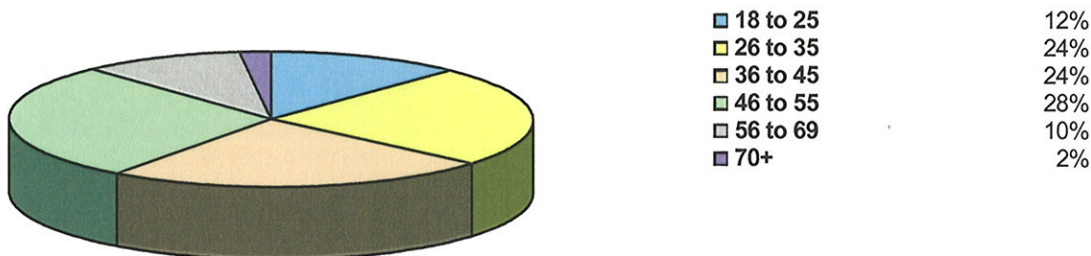
Sex



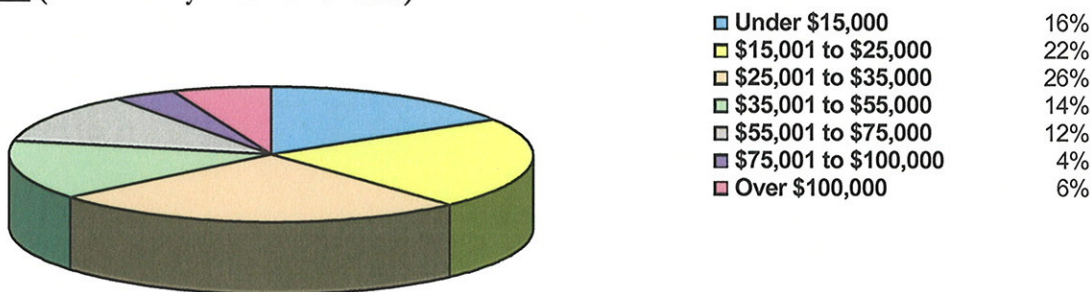
Race



Age

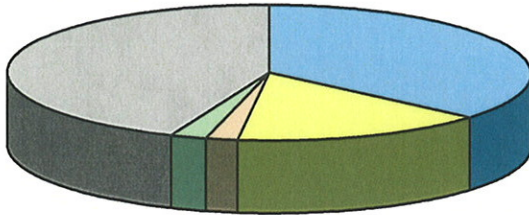


Income (Total Family Income Per Year)



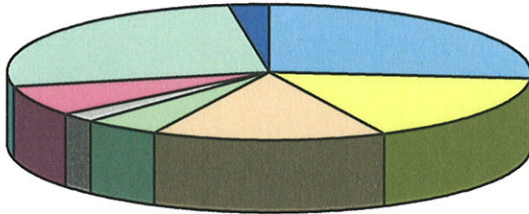
Demographics – Project A, continued

Marital Status



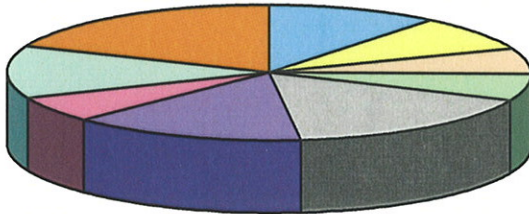
Married	36%
Divorced	16%
Separated	2%
Widowed	2%
Never Married	44%

Employment Status (Current)



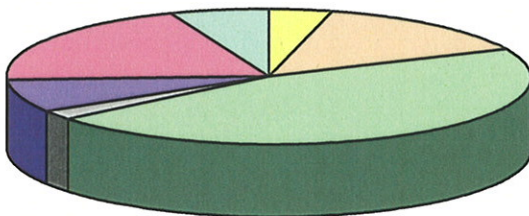
Full-time	22%
Part-time	14%
Self-employed	12%
Homemaker	4%
Disability/worker's comp/welfare	2%
Student	0%
Retired	6%
Unemployed	22%
Other	2%

Occupation (Current/Prior)



General Labor	10%
Clerical/administrative	8%
Helping professions	6%
Service industries	6%
Sales/marketing	16%
Professional	14%
Technical	6%
Managerial	12%
Agricultural/ranching	0%
Other	18%

Education

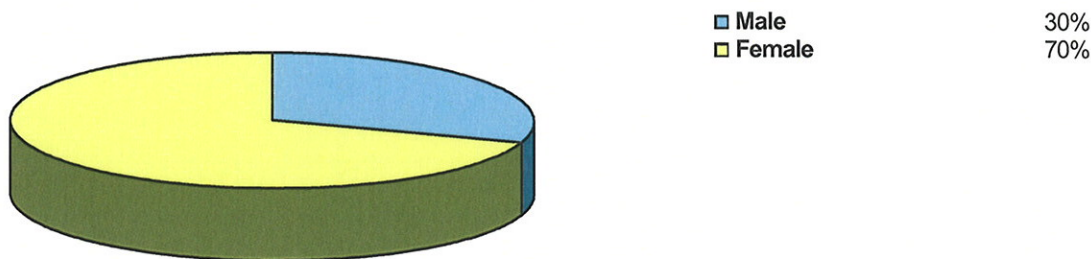


Less than high school diploma	0%
GED	4%
High school diploma	14%
Some college	46%
Trade/vocational school	2%
Associate degree (2 yr degree)	8%
B.A./B.S. (4 yr degree)	20%
Master degree	6%
Doctoral degree	0%

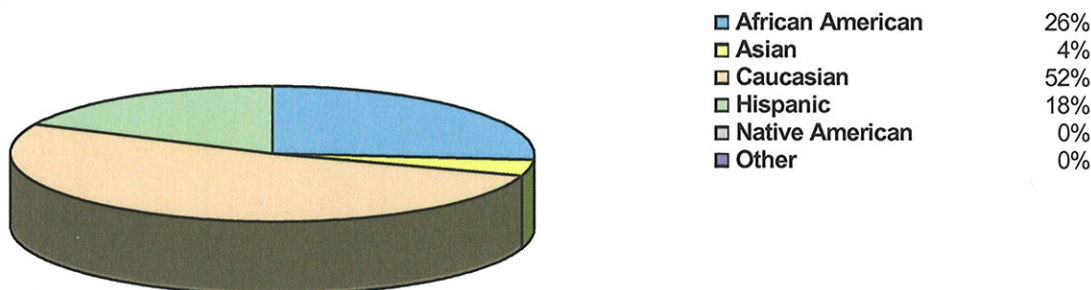
Demographics – Project B

Fifty (50) mock jurors were selected to participate in this jury simulation. The jurors were categorized along the following demographic dimensions:

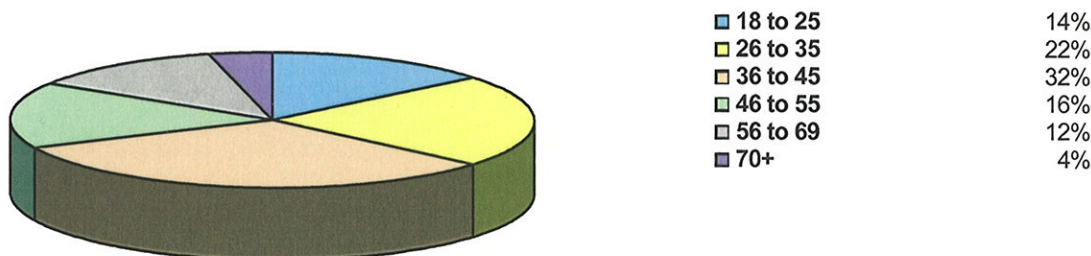
Sex



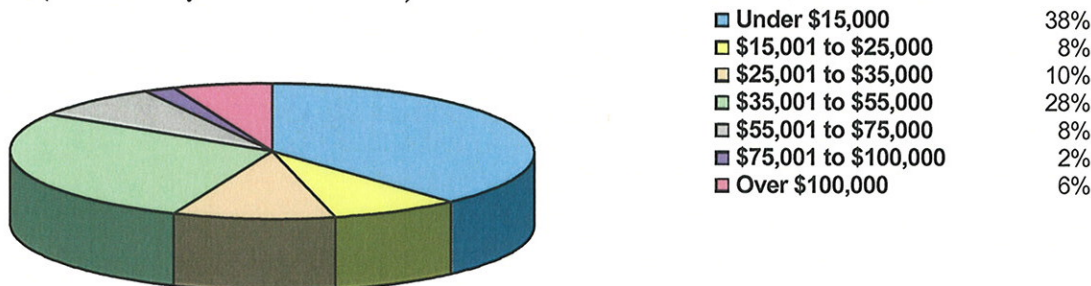
Race



Age

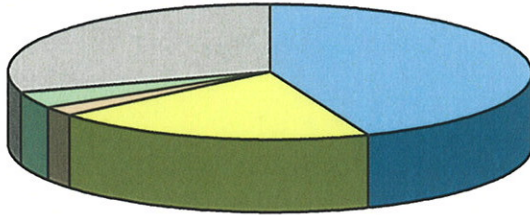


Income (Total Family Income Per Year)



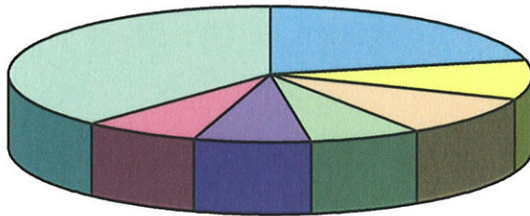
Demographics – Project B, continued

Marital Status



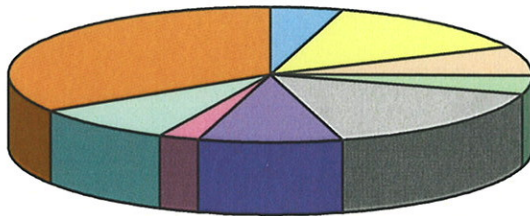
Married	44%
Divorced	20%
Separated	2%
Widowed	4%
Never Married	30%

Employment Status (Current)



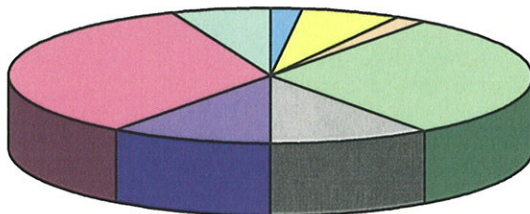
Full-time	18%
Part-time	8%
Self-employed	8%
Homemaker	6%
Disability/worker's comp/welfare	0%
Student	6%
Retired	6%
Unemployed	32%
Other	0%

Occupation (Current/Prior)



General Labor	4%
Clerical/administrative	12%
Helping professions	6%
Service industries	4%
Sales/marketing	14%
Professional	8%
Technical	2%
Managerial	8%
Agricultural/ranching	0%
Other	30%

Education



Less than high school diploma	2%
GED	6%
High school diploma	2%
Some college	30%
Trade/vocational school	10%
Associate degree (2 yr degree)	10%
B.A./B.S. (4 yr degree)	34%
Master degree	6%
Doctoral degree	0%

DATA

One Word Association (From Focus Group)– Project A

Preponderance of the evidence is defined as

Juror #	Response:
#01	"Greater amount"
#02	"Weight of the evidence is more than 50%"
#03	"One side has to equal the other"
#04	"How much evidence there is"
#05	"Don't know"
#06	"More than 50%"
#07	"Evidence is greater"
#08	"Evidence is greater"
#09	"More evidence than none"
#10	"50/50"
#11	"Majority of the evidence"
#12	"More evidence"
#13	"The scale is tipped"
#14	"More evidence"
#15	"It has to be more than 51%"
#16	"It has to be more than 51%"
#17	"More than the other side"
#18	"More than the other side"
#19	"More than the other side"
#20	"The weight"
#21	"Greater than 50%"
#22	"Weight of the evidence"

Juror #	Response:
#26	"Greater than 50%"
#27	"Greater than 50%"
#28	"Greater than 50%"
#29	"Greater than 50%"
#30	"I don't know"
#31	"Majority"
#32	"The greater amount"
#33	"Majority"
#34	"The weight of the evidence"
#35	"Majority"
#36	"Majority"
#37	"I don't know"
#38	"Majority"
#39	"One side has more evidence than the other side"
#40	"Weight"
#41	"Weight"
#42	"Majority"
#43	"Majority"
#44	"Majority"
#45	"Enough to really convince me so it has to be more than 50%"
#46	"The greater amount"
#47	"The weight"

#23	"Where you don't have to proof without reasonably doubt"
#24	"Majority of evidence leaves you without a doubt"
#25	"Majority of evidence leaves you without a doubt"

#48	"Majority"
#49	"One side has more evidence than the other side"
#50	"The amount or weight"

One Word Association – Project A (Continued)

Preponderance of the evidence is equal to what amount?

Juror #	Response:
#01	"60%"
#02	"51%"
#03	"50%"
#04	"80%"
#05	"51%"
#06	"50%"
#07	"75%"
#08	"80%"
#09	"82%"
#10	"51%"
#11	"51%"
#12	"60%"
#13	"80%"
#14	"51%"
#15	"51%"
#16	"51%"
#17	"80%"
#18	"80%"
#19	"81%"
#20	"81%"
#21	"80%"
#22	"80%"
#23	"51%"
#24	"80%"
#25	"100%"

Juror #	Response:
#26	"51%"
#27	"65%"
#28	"81%"
#29	"51%"
#30	"51%"
#31	"80%"
#32	"75%"
#33	"51%"
#34	"80%"
#35	"81%"
#36	"81%"
#37	"60%"
#38	"81%"
#39	"90%"
#40	"51%"
#41	"51%"
#42	"51%"
#43	"80%"
#44	"51%"
#45	"75%"
#46	"51%"
#47	"70%"
#48	"51%"
#49	"61%"
#50	"100%"

One Word Association – Project B

Preponderance of the evidence is defined as

Juror #	Response:
#01	"Don't know"
#02	"Not clear"
#03	"Don't know"
#04	"I don't remember"
#05	"All the information"
#06	"No exact evidence"
#07	"One way or another"
#08	"Most of the evidence was shown to be true"
#09	"N/A"
#10	"N/A"
#11	"Collaboration of the evidence"
#12	"N/A"
#13	"More so or not"
#14	"More so or not"
#15	"More likely than not"
#16	"More"
#17	"More than half"
#18	"More than 81%"
#19	"N/A"
#20	"Large amount"
#21	"Majority"
#22	"More likely than not"
#23	"Majority"
#24	"N/A"
#25	"Most of the evidence"

Juror #	Response:
#26	"I don't know"
#27	"Most of the evidence"
#28	"Most of the evidence"
#29	"N/A"
#30	"Larger of the two"
#31	"More likely than not"
#32	"Greater percentage"
#33	"N/A"
#34	"N/A"
#35	"More evidence"
#36	"N/A"
#37	"More than half"
#38	"Most"
#39	"Most"
#40	"N/A"
#41	"Majority"
#42	"Biggest share"
#43	"N/A"
#44	"N/A"
#45	"N/A"
#46	"More than half"
#47	"Most"
#48	"N/A"
#49	"N/A"
#50	"N/A"

One Word Associations, - Project B (continued)

Preponderance of the evidence is equal to what amount?

Juror #	Response:
#01	"51%"
#02	"Over 50%"
#03	"51%"
#04	"51%"
#05	"51%"
#06	"0%"
#07	"51%"
#08	"51%"
#09	"N/A"
#10	"N/A"
#11	"51%"
#12	"N/A"
#13	"51%"
#14	"More than half"
#15	"51%"
#16	"75%"
#17	"More than 50%"
#18	"75%"
#19	"N/A"
#20	"50% and above"
#21	"51%"
#22	"51%"
#23	"60%"
#24	"N/A"
#25	"70%"

Juror #	Response:
#26	"51%"
#27	"51%"
#28	"51%"
#29	"N/A"
#30	"80%"
#31	"80%"
#32	"51%"
#33	"N/A"
#34	"N/A"
#35	"51%"
#36	"N/A"
#37	"51%"
#38	"75%"
#39	"81%"
#40	"75%"
#41	"51%"
#42	"80%"
#43	"N/A"
#44	"N/A"
#45	"N/A"
#46	"75%"
#47	"51%"
#48	"N/A"
#49	"N/A"
#50	"N/A"

Table 1

Mean Responses on comprehension questionnaires from group A and group B.

Criteria	Questionnaire Version							
	PJC 1.1		PJC 1.2		PJC1.3		Verdict Form	
	A	B	A	B	A	B	A	B
Understandable	5.40	5.86*	5.82	5.90	5.24	5.66*	5.38	5.44
Clear	5.36	5.86*	5.74	5.90	5.26	5.64*	5.22	5.34
Easy to follow	5.26	5.84*	5.80	5.84	5.16	5.48	5.26	5.22
Simple	5.30	5.66	5.64	5.82	4.94	5.20	5.02	5.06
Makes Sense	5.32	5.90*	5.70	5.90	5.20	5.54	5.26	5.24
Necessary	5.44	5.74	5.80	5.80	5.60	5.76	5.56	5.44
Informative	5.30	5.62	5.80	5.74	5.40	5.64	5.30	5.28
Direct	5.60	5.84	5.76	5.90	5.52	5.70	5.24	5.26

* Denotes statistically significantly different from Group A at $p < .05$.

Table 2

Percentage of correct responses to PJC 1.1 Questionnaire.

Question	A	B	Difference	Percent Change
The case presented before you is a civil action and not a criminal action.	84%	100%	16%*	19%
Twelve people will be chosen as jurors in this case.	34%	92%	58%*	171%
If a juror breaks the rules, the Judge may have to order a new trial.	86%	96%	10%	12%
As a juror, you are allowed to withhold information from attorneys during jury selection.	84%	84%	0%	0%
As a juror, you are not allowed to mingle with the lawyers, the witness, the parties, or anyone involved in the case.	94%	100%	6%	6%
As a juror, you may say "hello" to the lawyers, witnesses, parties, and others involved in the case.	78%	84%	6%	8%
You are allowed to discuss this case with your spouse.	100%	94%	-6%	-7%
To be impartial means to be open and honest.	24%	32%	8%	33%
To be "free from bias and prejudice" means you have not prejudged the case before hearing the evidence.	92%	98%	6%	7%

* Denotes statistically significant difference in accuracy between group A and B at $p < .05$.

Table 3

Percentage of correct responses to PJC 1.2 Questionnaire.

Question	A	B	Difference	Percent Change
As a juror, you are allowed to investigate the case on your own (i.e. internet searches).	100%	100%	0%	0%
As a juror, you can discuss the case with each other while on breaks.	100%	90%	-10%*	-11%
As a juror, you should consider attorney's fees when awarding damages.	90%	98%	8%	9%
As a juror, you should not consider insurance when awarding damages.	68%	76%	8%	12%
As a juror, your role is to decide which side should win.	58%	60%	2%	3%
As a juror, your conclusions on the case can only be based on what is presented during the trial.	96%	100%	4%	4%
Secret evidence is evidence found by private investigation by a juror.	60%	40%	-20%*	-33%

* Denotes statistically significant difference in accuracy between group A and B at $p < .05$.

Table 4

Percentage of correct responses to PJC 1.3 Questionnaire.

Question	A	B	Difference	Percent Change
As a juror, you can't let sympathy influence your verdict.	92%	98%	6%	7%
During your deliberations, you may take an average of damage amounts and use that as your answer.	78%	92%	14%	18%
As jurors, you must be unanimous in all of your answers.	40%	78%	38%*	95%
As jurors, you may trade answers and exchange votes.	94%	98%	4%	4%
The presiding juror has the final say in the verdict.	76%	58%	-18%	-31%
You cannot use circumstantial evidence in deciding your verdict.	54%	66%	12%	22%
Preponderance of the evidence means beyond a shadow of a doubt.	38%	54%	16%	42%
Circumstantial evidence is indirect proof.	86%	86%	0%	0%
Deliberations are the instructions the Judge reads to you as jurors.	74%	70%	-4%	-6%

* Denotes statistically significant difference in accuracy between group A and B at $p < .05$.

Table 5

Percentage of correct responses to Verdict Form Questionnaire.

Question	A	B	Difference	Percent Change
In a civil trial, the jury has to be convinced beyond a reasonable doubt that the Plaintiff's claims are correct.	30%	38%	8%	27%
In order to be a "proximate cause" for an event, the result does not necessarily have to be foreseeable.	24%	34%	10%	42%
One of the criteria of fraud is that a party (the Plaintiff) suffers by relying on a false statement of fact from another party (the Defendant).	86%	90%	4%	5%
"Proximate cause" means the Plaintiff was injured as a result of the Defendant's act or omission.	50%	58%	8%	16%
One of the criteria of fraud is that a party (the Defendant) makes a false statement with the intention that it should be acted on by another party (the Plaintiff).	74%	80%	6%	8%
You cannot have more than one proximate cause.	62%	62%	0%	0%
In order to find that the Defendant committed fraud, the Plaintiff only has to prove that one of the four criteria of fraud has been met.	20%	68%	48%*	240%

* Denotes statistically significant difference in accuracy between group A and B at $p < .05$.

Table 6

Responses to questions regarding Verdict Form.

Question	Response Option			
	Yes		No	
	A	B	A	B
Did your jury spend any time during its deliberations discussing any of the instructions that the judge gave you?	44%	68%	56%	32%
The judge's reading of the instructions was so clear that we didn't need to discuss them.	66%	42%	34%	58%
The instructions the Judge read were too long.	24%	32%	76%	68%
The instructions the Judge read were too difficult to understand.	4%	6%	96%	94%
We didn't know how to use the instructions to help to reach a verdict.	22%	16%	78%	84%
You didn't need instructions to decide a case like this.	34%	30%	66%	70%

Table 7

Percentage of responses to trailer question ("I chose that answer because") from PJC 1.1, 1.2, 1.3.

Question		Response Option							
		Group A				Group B			
		1	2	3	4	1	2	3	4
The case presented before you is a civil action and not a criminal action.	Correct	95%	5%	0%	0%	98%	0%	0%	2%
	Incorrect	13%	13%	13%	61%	0%	0%	0%	0%
Twelve people will be chosen as jurors in this case.	Correct	58%	24%	18%	0%	96%	2%	2%	0%
	Incorrect	27%	22%	6%	45%	50%	0%	50%	0%
If a juror breaks the rules, the Judge may have to order a new trial.	Correct	93%	5%	2%	0%	98%	2%	0%	0%
	Incorrect	43%	29%	14%	14%	50%	0%	0%	50%
As a juror, you are allowed to withhold information from attorneys during jury selection.	Correct	76%	17%	5%	2%	90%	7%	3%	0%
	Incorrect	50%	13%	13%	24%	38%	25%	25%	12%
As a juror, you are not allowed to mingle with the lawyers, the witness, the parties, or anyone involved in the case.	Correct	100%	0%	0%	0%	100%	0%	0%	0%
	Incorrect	100%	0%	0%	0%	0%	0%	0%	0%
As a juror, you may say "hello" to the lawyers, witnesses, parties, and others involved in the case.	Correct	100%	0%	0%	0%	100%	0%	0%	0%
	Incorrect	73%	18%	9%	0%	63%	25%	0%	12%

Response Options: (1) I heard the Judge read it. (2) I didn't hear the Judge read it, but it makes sense. (3) I'm guessing. (4) I don't know.

Question		Response Option							
		Group A				Group B			
		1	2	3	4	1	2	3	4
You are allowed to discuss this case with your spouse.	Correct	96%	2%	0%	2%	96%	0%	0%	2%
	Incorrect	0%	0%	0%	0%	67%	33%	0%	0%
To be impartial means to be open and honest.	Correct	17%	75%	8%	0%	31%	38%	25%	6%
	Incorrect	42%	47%	8%	3%	80%	8%	6%	6%
To be "free from bias and prejudice" means you have not prejudged the case before hearing the evidence.	Correct	37%	54%	7%	2%	94%	6%	0%	0%
	Incorrect	25%	0%	0%	75%	0%	0%	0%	100%
As a juror, you are allowed to investigate the case on your own (i.e. internet searches).	Correct	96%	4%	0%	0%	100%	0%	0%	0%
	Incorrect	0%	0%	0%	0%	0%	0%	0%	0%
As a juror, you can discuss the case with each other while on breaks.	Correct	98%	2%	0%	0%	93%	7%	0%	0%
	Incorrect	0%	0%	0%	0%	100%	0%	0%	0%
As a juror, you should consider attorney's fees when awarding damages.	Correct	93%	7%	0%	0%	100%	0%	0%	0%
	Incorrect	40%	0%	20%	40%	100%	0%	0%	0%
As a juror, you should not consider insurance when awarding damages.	Correct	82%	15%	3%	0%	100%	0%	0%	0%
	Incorrect	44%	6%	19%	31%	92%	0%	0%	8%

Response Options: (1) I heard the Judge read it. (2) I didn't hear the Judge read it, but it makes sense. (3) I'm guessing. (4) I don't know.

Question		Response Option							
		Group A				Group B			
		1	2	3	4	1	2	3	4
As a juror, your role is to decide which side should win.	Correct	90%	10%	0%	0%	90%	10%	0%	0%
	Incorrect	43%	43%	4%	10%	70%	25%	0%	5%
As a juror, your conclusions on the case can only be based on what is presented during the trial.	Correct	92%	8%	0%	0%	98%	2%	0%	0%
	Incorrect	100%	0%	0%	0%	0%	0%	0%	0%
Secret evidence is evidence found by private investigation by a juror.	Correct	87%	13%	0%	0%	70%	20%	10%	0%
	Incorrect	35%	35%	20%	10%	20%	23%	30%	27%
As a juror, you can't let sympathy influence your verdict.	Correct	80%	17%	3%	0%	86%	14%	0%	0%
	Incorrect	75%	0%	0%	25%	100%	0%	0%	0%
During your deliberations, you may take an average of damage amounts and use that as your answer.	Correct	90%	10%	0%	0%	94%	4%	0%	2%
	Incorrect	35%	10%	10%	45%	50%	50%	0%	0%
As jurors, you must be unanimous in all of your answers.	Correct	90%	5%	5%	0%	92%	5%	3%	0%
	Incorrect	84%	3%	10%	3%	64%	18%	18%	0%
As jurors, you may trade answers and exchange votes.	Correct	94%	4%	2%	0%	94%	4%	2%	0%
	Incorrect	100%	0%	0%	0%	100%	0%	0%	0%

Response Options: (1) I heard the Judge read it. (2) I didn't hear the Judge read it, but it makes sense. (3) I'm guessing. (4) I don't know.

Question		Response Option							
		Group A				Group B			
		1	2	3	4	1	2	3	4
The presiding juror has the final say in the verdict.	Correct	66%	32%	0%	2%	80%	17%	3%	0%
	Incorrect	66%	17%	0%	17%	75%	5%	10%	10%
You cannot use circumstantial evidence in deciding your verdict.	Correct	70%	23%	7%	0%	85%	12%	3%	0%
	Incorrect	74%	22%	4%	0%	70%	24%	6%	0%
Preponderance of the evidence means beyond a shadow of a doubt.	Correct	43%	47%	10%	0%	55%	30%	15%	0%
	Incorrect	61%	6%	13%	20%	74%	9%	4%	13%
Circumstantial evidence is indirect proof.	Correct	55%	33%	10%	2%	88%	8%	2%	2%
	Incorrect	0%	43%	0%	57%	72%	0%	14%	14%
Deliberations are the instructions the Judge reads to you as jurors.	Correct	43%	49%	5%	3%	63%	20%	11%	6%
	Incorrect	84%	8%	0%	8%	73%	13%	7%	7%

Response Options: (1) I heard the Judge read it. (2) I didn't hear the Judge read it, but it makes sense. (3) I'm guessing. (4) I don't know.

Table 8

Percentage of responses to trailer question ("I chose that answer because") from verdict form.

Question		Response Option									
		Group A					Group B				
		1	2	3	4	5	1	2	3	4	5
In a civil trial, the jury has to be convinced beyond a reasonable doubt that the Plaintiff's claims are correct.	Correct	40%	53%	0%	0%	7%	58%	26%	0%	11%	5%
	Incorrect	37%	34%	11%	11%	7%	45%	23%	16%	3%	13%
In order to be a "proximate cause" for an event, the result does not necessarily have to be foreseeable.	Correct	50%	25%	8%	0%	17%	47%	29%	12%	0%	12%
	Incorrect	32%	29%	13%	21%	5%	27%	21%	18%	0%	27%
One of the criteria of fraud is that a party (the Plaintiff) suffers by relying on a false statement of fact from another party (the Defendant).	Correct	65%	16%	0%	0%	19%	69%	18%	4%	2%	7%
	Incorrect	14%	14%	43%	0%	29%	50%	25%	8%	0%	17%
"Proximate cause" means the Plaintiff was injured as a result of the Defendant's act or omission.	Correct	56%	20%	0%	4%	20%	67%	21%	6%	0%	6%
	Incorrect	12%	20%	24%	36%	8%	9%	9%	29%	48%	5%
One of the criteria of fraud is that a party (the Defendant) makes a false statement with the intention that it should be acted on by another party (the Plaintiff).	Correct	65%	14%	2%	0%	19%	65%	10%	10%	0%	15%
	Incorrect	17%	22%	22%	17%	22%	20%	30%	20%	20%	10%

Response Options: (1) I heard the Judge read it. (2) I didn't hear the Judge read it, but it makes sense. (3) I'm guessing. (4) I don't know.

(5) I learned it during deliberations.

Response Option

Question		Group A					Group B				
		1	2	3	4	5	1	2	3	4	5
You cannot have more than one proximate cause.	Correct	55%	32%	10%	0%	3%	55%	13%	19%	0%	13%
	Incorrect	11%	0%	20%	58%	11%	0%	11%	21%	68%	0%
In order to find that the Defendant committed fraud, the Plaintiff only has to prove that one of the four criteria of fraud has been met.	Correct	70%	10%	0%	10%	10%	65%	9%	6%	0%	20%
	Incorrect	43%	17%	13%	10%	17%	31%	13%	13%	25%	18%

Response Options: (1) I heard the Judge read it. (2) I didn't hear the Judge read it, but it makes sense. (3) I'm guessing. (4) I don't know.

(5) I learned it during deliberations.

Table 9 Preponderance of the Evidence Survey.

The following written question was given to 75 research participants who were not part of this project, but hired to be mock jurors in other Texas Mock Trials conducted by Courtroom Sciences in March and April 2006. The percentage of responses were grouped and are listed below.

You may or may not be familiar with the term "preponderance of the evidence" with respect to lawsuits and jury trials. It is the standard of proof used in many types of civil cases.

Typically, the Plaintiff in a lawsuit has to prove its case by a preponderance of the evidence in order to succeed.

*According to Texas law, the term "preponderance of the evidence" is defined as **the greater weight and degree of credibility of the evidence** admitted in the case.*

In your opinion, what is the numerical value for "preponderance of the evidence"? (Please answer with a number between 0%-100%)

Numerical Value	Percentage of participants who assigned a value in this range
0% – 50%	9%
51% – 60%	9%
61% – 80%	33%
81% – 100%	49%

n = 75

Table 10

Number of participants confused by terms or phrases in the jury charge.

	Group A	Group B
Term or phrase		
Deliberations	1 (2%)	0
Bias	1 (2%)	0
"You must not decide who you think should win"	1 (2%)	0
Quotient	1 (2%)	0
"You will not, therefore, enter into an agreement to be bound by a majority or any other vote of less than ten jurors."	2 (4%)	0
"Those jurors who agree to all findings shall each sign the verdict form."	2 (4%)	0
Preponderance	4 (8%)	7 (14%)
"The same 10 jurors must agree on all the answers and then to the entire verdict."	0	1 (2%)
"If all 12 jurors do not agree, the 10 or more jurors who agree each sign the verdict certificate."	0	2 (4%)
"The greater weight and degree of credible evidence presented in this case." I	0	5 (10%)
"A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved."	2 (4%)	0
Indirect evidence means the circumstances reasonably suggest the fact. Indirect evidence means that based on the evidence, you can conclude the fact is true. Indirect evidence is also called "circumstantial evidence."	0	1 (2%)
"A fact may be proved by direct evidence or by indirect evidence or by both."	0	1 (2%)
"The presiding juror has the duty to sign the verdict if all 12 jurors agree or to get the signatures of all those who agree if the verdict is not by all 12."	0	1 (2%)

Term or phrase	Group A	Group B
"You should not discuss the case with anyone, not even with other members of the jury, unless all of you are present and assembled in the jury room."	1 (2%)	0
"In answering questions about damages, answer each question separately. Do not increase or reduce the amount in one answer because of the instructions in or your answers to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment."	2 (4%)	0
Joint venture	0	2 (4%)
"A joint venture must be based on an agreement, and the agreement must have all these elements."	0	3 (6%)
Under joint venture, "a community of interest in the venture."	1 (2%)	0%
Fiduciary	17 (34%)	9 (18%)
Under fiduciary duty, "The transaction was fair to the Plaintiff; and the Defendant made reasonable use of the confidence that the Plaintiff placed in it; and the Defendant acted in the utmost good faith."	0	1 (2%)
Proximate cause	2 (4%)	1 (2%)
Fraud	0	1 (2%)
Material misrepresentation	3 (6%)	1 (2%)
"Misrepresentation means a false statement of fact or a promise of future performance made with an intent, at the time the promise was made, not to perform as promised."	2 (4%)	1 (2%)
"The party makes the misrepresentation as a positive assertion knowing it is false or makes the representation recklessly without knowing if it is true or false."	0	1 (2%)
"The party makes the misrepresentation and intends that the other party should act on it."	0	1 (2%)

Term or phrase	Group A	Group B
"The other party relies on the misrepresentation and suffers injury from relying on it."	0	1 (2%)
Negligent misrepresentation	1 (2%)	0
Pecuniary	10 (20%)	0
"The party making the representation did not exercise reasonable care or competence in obtaining or communicating the information."	1 (2%)	0
Exemplary damages	2 (4%)	0
Punitive damages	0	1 (2%)
"What sum of money."	0	1 (2%)
"The character of the conduct involved."	1 (2%)	0
"Degree of culpability"	5 (10%)	0
"To be signed by those rendering the verdict if not by all 12."	0	1 (2%)

ANALYSIS

Rating of Instructions from Judge

The data in Table 1 demonstrates the research participants' reactions to the delivery and content of the Admonitory Instructions. They were asked to rate the certain criteria pertaining to the PJs using a 1-6 Likert scale with 1 being "Not at All" and 6 being "Very much." The mean responses as portrayed in Table 1 reflect that research participants in Project B rated the following criteria significantly higher than the research participants in Project A.

Understandable - PJC 1.1 and PJC 1.3;

Clear - PJC 1.3;

Easy to Follow - PJC 1.1;

Makes Sense – PJC 1.1.

A statistically significant difference was measured using $p < .05$.

Comprehension of Instructions from Judge

The data in Tables 2-6 indicate that the comprehension levels of Version A are low but sometimes do improve using Version B. A correct response rate is considered low when less than 80% of research participants answer the True/False/Don't Know statement correctly. A "Don't Know" answer is considered incorrect.

PJC 1.1 – Instructions before Jury Selection

The survey data indicates correct response rates below 80% for the following items in the existing PJs (Version A). Correct response rates are indicated in parentheses:

Twelve people will be chosen as jurors in this case (34%);

[34% of the Project A research participants answered this True/False/Don't Know survey item correctly]

As a juror, you may say "hello" to the lawyers, witnesses, parties, and others involved in the case (78%);

To be impartial means to be open and honest (24%).

In Version B, survey data indicates correct response rates below 80% for the following items:

To be impartial means to be open and honest (32%).

A statistically significant difference was found in the correct response rate levels between Version A and Version B of the following items:

The case presented before you is a civil action and not a criminal action;

Twelve people will be chosen as jurors in this case.

PJC 1.2 – Instructions after Jury is Selected

The survey data indicates correct response rates below 80% for the following items in existing PJC's (Version A). Correct response rates are indicated in parentheses:

As a juror, you should not consider insurance when awarding damages (68%);

As a juror, your role is to decide which side should win (58%);

Secret evidence is evidence found by private investigation by a juror (60%).

In Version B, survey data indicates correct response rates below 80% for the following items:

As a juror, you should not consider insurance when awarding damages (76%);

As a juror, your role is to decide which side should win (60%);

Secret evidence is evidence found by private investigation by a juror (40%).

A statistically significant difference was found in the correct response rate levels between Version A and Version B of the following items:

As a juror, you can discuss the case with each other while on breaks;

Secret evidence is evidence found by private investigation by a juror.

However, it should be noted that in PJC 1.2, the correct response rate to the above survey items was statistically better in Version A than Version B.

PJC 1.3/1.8 and Charge to the Court – Instructions before Jury Deliberations

The survey data indicates correct response rates below 80% for the following items in existing PJC's (Version A). Correct response rates are indicated in parentheses:

During your deliberations, you may take an average of damage amounts and use that as your answer (78%);

As jurors, you must be unanimous in all of your answers (40%);

The presiding jurors have the final say in the verdict (76%);

You cannot use circumstantial evidence in deciding your verdict (54%);

Preponderance of the evidence means beyond a shadow of a doubt (38%);

Deliberations are the instructions the Judge reads to you as jurors (74%).

In Version B, survey data indicates correct response rates below 80% for the following items:

As jurors, you must be unanimous in all of your answers (78%);

The presiding jurors have the final say in the verdict (58%);

You cannot use circumstantial evidence in deciding your verdict (66%);

Preponderance of the evidence means beyond a shadow of a doubt (54%);

Deliberations are the instructions the Judge reads to you as jurors (70%).

A statistically significant difference was found in the correct response rate levels between Version A and Version B of the following items:

As jurors, you must be unanimous in all of your answers.

Verdict Form

The survey data indicates correct response rates below 80% for the following items in existing PJs (Version A). Correct response rates are indicated in parentheses:

In a civil trial, the jury has to be convinced beyond a reasonable doubt that the Plaintiff's claims are correct (30%);

In order to be a "proximate cause" for an event, the result does not necessarily have to be foreseeable (24%);

"Proximate cause" means the Plaintiff was injured as a result of the Defendant's act or omission (50%).

One of the criteria of fraud is that a party (the Defendant) makes a false statement with the intention that it should be acted on by another party (the Plaintiff) (74%);

You cannot have more than one proximate cause (62%);

In order to find that the Defendant committed fraud, the Plaintiff only has to prove that one of the four criteria of fraud has been met (20%).

In Version B, survey data indicates correct response rates below 80% for the following items:

In a civil trial, the jury has to be convinced beyond a reasonable doubt that the Plaintiff's claims are correct (38%);

In order to be a "proximate cause" for an event, the result does not necessarily have to be foreseeable (34%);

"Proximate cause" means the Plaintiff was injured as a result of the Defendant's act or omission (58%);

One of the criteria of fraud is that a party (the Defendant) makes a false statement with the intention that it should be acted on by another party (the Plaintiff) (80%);

You cannot have more than one proximate cause (62%);

In order to find that the Defendant committed fraud, the Plaintiff only has to prove that one of the four criteria of fraud has been met (68%).

A statistically significant difference was found in the correct response rate levels between Version A and Version B of the following items:

In order to find that the Defendant committed fraud, the Plaintiff only has to prove that one of the four criteria of fraud has been met.

Source of Information and Opinion

When examining the reasons for selection of their answer response to the True/False survey items, it is interesting to discover those research participants why they answered the True/False /Don't Know incorrectly. This data is presented in Table 7-8 of the Data Section of this report. It is important to pay attention to those research participants who state that they chose an incorrect answer because either the Judge read it (answer choice 1) or because the Judge didn't read it but it makes sense (answer choice 2).

Incorrect Answer, but "I Heard the Judge Read It":

In examining this data, it is apparent that these research participants did not hear the Judge correctly or simply misperceived what was read by the Judge. This is evident by the looking at the reasons cited for why research participants chose an incorrect answer. In many instances, they chose answer choice 1, "I heard the Judge read it." At least 50% of the research participants who answered the following True/False/Don't Know items incorrectly and attributed their answers to hearing it from the Judge (answer choice 1). The percentage is in parentheses after the survey item below and the version is indicated:

Twelve people will be chosen as jurors in this case (50% - B);

[During Project B, 50% of research participants who chose an incorrect answer to this True/False/Don't Know survey item claimed they heard this instruction from the Judge]

If a juror breaks the rules, the Judge may have to order a new trial (50% - B);

As a juror, you are allowed to withhold information from attorneys during jury selection (50% - A);

As a juror, you are not allowed to mingle with the lawyers, the witness, the parties, or anyone involved in the case (100%-A);

As a juror, you may say "hello" to the lawyers, witnesses, parties, and others involved in the case (73% - A, 63% - B);

You are allowed to discuss this case with your spouse (67% - B);

To be impartial means to be open and honest (80% - B);

As a juror, you can discuss the case with each other while on breaks (100% - B);

As a juror, you should consider attorney's fees when awarding damages (100% - B);

As a juror, you should not consider insurance when awarding damages (92% - B);

As a juror, your role is to decide which side should win (70% - B);

As a juror, your conclusions on the case can only be based on what is presented during the trial (100% - A);

As a juror, you can't let sympathy influence your verdict (75% - A, 100% - B);

During your deliberations, you may take an average of damage amounts and use that as your answer (50% - B);

As jurors, you must be unanimous in all of your answers (84% - A; 64% - B);

As jurors, you may trade answers and exchange votes (100% - A, 100% - B);

The presiding juror has the final say in the verdict (66% - A, 75% - B);

You cannot use circumstantial evidence in deciding your verdict (74% - A, 70% - B);

Preponderance of the evidence means beyond a shadow of a doubt (61% - A, 74% - B);

Circumstantial evidence is indirect proof (72% - B);

Deliberations are the instructions the Judge reads to you as jurors 84% - A, 73% - B);

One of the criteria of fraud is that a party (the Plaintiff) suffers by relying on a false statement of fact from another party (the Defendant) (50% - B);

Incorrect Answer, and "I Didn't Hear it from the Judge, but it Makes Sense":

When incorrect answers are chosen due to research participants not hearing it, but thinking it made sense is another area of concern (answer choice 2). At least 50% of the research participants cited that logic for an incorrect answer to the following items, and this demonstrates that jurors are substituting their own common sense for what the law prescribes.

During your deliberations, you may take an average of damage amounts and use that as your answer (50% - B);

Incorrect Answer, but "I was Guessing":

It is also interesting to note from Table 7-8 that some research participants answered incorrectly and stated they were guessing (answer choice 3). At least 50% of the research participants cited this reason for an incorrect answer to the following items:

Twelve people will be chosen as jurors in this case (50% - B);

Incorrect Answer, and "I Don't Know" Why I Chose It:

It is also interesting to note from Table 7-8 that some research participants answered incorrectly and stated they did not know why they chose that answer (answer choice 4). At least 50% of the research participants cited this reason for an incorrect answer to the following items:

The case presented before you is a civil action and not a criminal action (61% - A);

If a juror breaks the rules, the Judge may have to order a new trial (50% - B);

To be "free from bias and prejudice" means you have not prejudged the case before hearing the evidence (75% - A, 100% - B);

Circumstantial evidence is indirect proof (57% - A);

You cannot have more than one proximate cause (58% - A, 68% - B).

Incorrect Answer, but "I Learned it during Deliberations":

With regards to the Verdict Form Questionnaire, the trailer question included a fifth response option to indicate the basis of their answer to the preceding question. That additional response option was "I learned it during deliberations." As a side note that is of interest, for incorrect answers to the following items, at least 15% of the research participants cited that reason:

In order to be a "proximate cause" for an event, the result does not necessarily have to be foreseeable (27% - B);

One of the criteria of fraud is that a party (the Plaintiff) suffers by relying on a false statement of fact from another party (the Defendant) (29% - A; 17% - B);

One of the criteria of fraud is that a party (the Defendant) makes a false statement with the intention that it should be acted on by another party (the Plaintiff) (22% - A);

In order to find that the Defendant committed fraud, the Plaintiff only has to prove that one of the four criteria of fraud has been met (17% - A, 18% - B).

Preponderance of the Evidence

The data in Table 9 reveals a common sense numerical assignment to “preponderance of the evidence” as defined by the Judge in PJC 1.3. A survey was given to 75 research participants recruited for private Mock Trials in Texas venues between February and May 2006.

The data suggests that 49% of those surveyed assigned a numerical value between 81%-100% of the evidence while only 9% assigned a number between 51%-60% of the evidence.

Also, this question was asked as part of the PJC 1.3/1.8 survey. Only 38% of the research participants answered it correctly (51%-60% was considered correct) in Version A and 54% in Version B. Furthermore, 61% in Version A and 74% in Version B attributed the incorrect answer to hearing it from the Judge.

Lastly, data on the preponderance of the evidence is presented as One-Word Associations in the Data section to this report. The research participants were asked in the focus group session to give a definition as well as a numerical value. Those responses are illustrated in that section.

Jury Confusion Study

The data in Table 10 illustrates the results from the Jury Confusion Study, whereby the research participants were asked to review the Charge to the Court (which included PJC 1.3, 1.8 and the Verdict Form with Jury Instructions), and to highlight the language that was confusing. Both the frequency and percentage are reported.