READING THE JURY, ONE FACE AT A TIME

by Mac Fulfer

Facing my first jury trial as a young new attorney, I scoured the local law library in search of any information that might aid me in jury selection. I was shocked to discover one law article that advised as standard wisdom not to pick jurors whose profession started with the letter "p." At that point, I decided that jury selection must be no better than rolling dice because I could not understand what preachers, pimps, psycho-therapists, police officers, painters, philosophers and piano tuners could possibly have in common.

I was equally wary of the use of professional statistical analysis which was not only prohibitively expensive for most cases, but also time consuming. What was even worse, statistical approach in the end gave only vague generalizations that were often not predictive of the jury's verdict. It didn't help me to know that 75 percent of the people in a particular income bracket would respond in a particular way to a given set of facts. I needed to know exactly which jurors held those attitudes and I needed to know quickly, because the judge usually had limited patience with endless voir dire questions.

In my experience, another fundamental problem with the voir dire process is that there is no way to know if the potential juror is being truthful, if he understood the question, or if he just did not want to cooperate with the system. Even when truthful, potential jurors answer to the attorney's questions often do not reflect their final decision about the case. Therefore, despite my best efforts, the final selection of strikes felt like guesswork. Face reading became the answer to my problem.

My interest in face reading came out of my desire to have a better understanding of potential jurors but it has taken me far beyond that initial quest. At first, I was focused on evaluating and validating the usefulness and accuracy of face reading in jury selection. My goal was to have an instant personality profile of every person I met. I later discovered that while face reading gives a much deeper insight and awareness of others, it also offers an even greater gift, which is a breakthrough in communication.

I found that the art of communication was less about being a profound orator and more about being a good listener. In fact, the ability to read the faces of the opposing counsel, the judge, the jury, and each witness examined was more valuable than even the most polished of verbal skills. Face reading gave me a new way to listen with more than just my ears.

WHAT IS FACE READING?

Scientists speculate that the capacity for language is only fifty thousand years old. However, face reading not only pre-dates language it is even older than humankind. Even animals are face readers and can quickly tell by sight the difference between a snarl and a whimper.

While we all understand the importance of facial expression in communication and easily understand the meaning of a smile or a frown, few realize that a face is a living record and personality profile rolled into one. Our primal intuitions about people's temperaments, feelings and intentions depend to a great extent on what we observe in their faces. We are all instinctive face readers from birth; however, we dramatically increase our personal effectiveness when we can quickly and accurately read every face like a map.

For the record, Amazing Face Reading is not mind reading, nor is it about guessing the person's mood from the expressions on his face. Experience teaches that some facial expressions can be faked, like the too sincere smile or crocodile

tears. Furthermore, face reading will not guarantee a particular result. It is, however, a powerful and useful tool for developing a deeper understanding of every person you meet. As Abraham Lincoln once observed, "You are born with one face, but by the age of fifty you have the face you deserve."

Amazing Face Reading is a tool which can unlock the unique character and personality of every person we meet and provide valuable insights in a manner that is both easy to understand and apply. Unlike other personality profiles, face reading can give an instant assessment of the person even when he is being uncooperative. In fact, every face can be read, whether the person is standing close or across the room.

THE SCIENTIFIC BASIS

Life experiences change the face due to the fact that our internal thoughts and feelings are registered on our face by tiny micro-facial movements even before there is a conscious awareness of the thought or feeling. These movements were first recorded by the noted psychology professor Paul Ekman in his development of the Facial Action Coding System; see Unmasking the Face, Ekman, Friesen, 1975.

According to Ekman, there are over forty different possible facial movements which combine to create over ten thousand different expressions. These expressions can be read to discover the underlying feelings or emotional response of the person in that moment. He also discovered that these micro-facial responses were universal. The

people in Papua, New Guinea had the same facial responses to the underlying emotion as the people in the United States.

For most people, attempting to recognize and remember the meanings for 10,000 different and fleeting expressions is almost impossible and would take a lifetime of study. Fortunately, the repeated uses of the micro-facial muscles, which create these expressions, shape the face and can be easily read.

While it is not surprising that we develop muscles when we have a rigorous physical training schedule, we sometimes fail to realize that we are constantly using the muscles in our face, even when we are not aware of it. This inherent connection between our internal thoughts and feelings and the external physical response on our face not only affects the muscles but also the lines on our face. In fact, every line on the face can reveal a hidden meaning.

In addition to the fact that the face is molded by life experience, it is undeniable that a part of our physical appearance is inherited. We can often see a family resemblance. However, it may be surprising to discover that when we inherit a particular physical facial feature we also inherit the personality train or characteristic associated with that feature.

A possible explanation for the relationship between inherited facial features and personality lies in the fact that the feedback we receive from others in their reaction to our face becomes our own self-fulfilling prophesy. In other words, if you have an action hero's face and were

always chosen to be the captain in sports, you will grow up perceiving yourself as a leader.

Nevertheless, inherited features only contribute 40 percent to our facial appearance. The remaining 60 percent of our appearance is the result of our life experience which always leaves a mark. A good example is the case of identical twins that may be almost indistinguishable when they are young. But by the age of forty, with dissimilar life experiences, may appear very different and are easy to tell apart.

JURY SELECTION

Face reading can also help eliminate bias, prejudice and discrimination when we make personal assessments. For example, we may be able to determine a person's age, race or gender but after learning to read his face, such stereotypical categorizations become about as relevant to our deeper understanding of him as noting the color of his socks. By acquiring a more accurate and reliable method of understanding and evaluating others, the old judgmental patterns are more easily abandoned. With a little practice, it is an easy to read a face as it is to spot a body builder in a crowd.

While it may be impossible to predict with certainty a jury's final verdict, having an insight into the way each person habitually responds or typically evaluates information can be a tremendous help in the way the case is presented. For example, if you are the plaintiff seeking damages, it would be helpful to be able to spot which potential jurors are by nature caring, compassionate,

generous and concerned for the welfare of others. If you are the defense attorney, you might want to know which jurors are more conservative, fact oriented and wary of awarding anything to anyone.

Face reading can help expose a potential juror's predetermined mind set, attitude, or point of view which would make him or her an unacceptable jury candidate. Every piece of information available to help determine the potential juror's character, values and thought processes can be useful. Face reading gives insights which can lead to more specific questions to discover a juror's fatal bias. This advantage allows the juror to be struck for cause, thereby saving a discretionary strike.

For a quick example of how we can use face reading for the purpose of jury selection, we can start with the eyes. We listen with our eyes. Our eyes betray our inner attitudes in spite of our attempt to disguise our feelings. When we are open and receptive to what we hear, our eyes open up to let in more light. Our bottom eyelids (where the bottom eyelashes attach) relax and become round or curved.

On the other hand, when we become wary, suspicious, guarded, defensive or judgmental about what we hear, our bottom eyelids become straight or flat. Even if the person is maintaining a pleasant smile his bottom eyelids will give him away and reveal his secret, negative attitude. While it may seem that the members of the jury panel with their silence are not communicating, actually they are voting on every word that comes out of the attorney's month. Our eyelids are in a constant dance, registering openness and attention when they are round or full and signaling that we are screening information through a wary, mistrustful filter when the bottom eyelids become straight.

By paying attention to the individual jury panel members, we can quickly see which way they are emotionally learning before they have head the first piece of evidence.

If you notice that when the opposing counsel was addressing the panel, you saw round or curved eyelids that became straight or flat, when it was your turn, you have just established your probable strikes. Those flat or straight bottom lids were voting against you or your side of the issue before they have heard any testimony.

By watching the fluctuations in the bottom eyelids, it is possible to know which of the members of the jury panel have a predetermined mind set. A closer examination will tell you why. The left side of the face reflects personal feelings, relationship issues, health concerns and private attitudes, which the right side of the face reflects evaluation of data and interaction with the external world. A shorthand way for remembering this is the left side of the person's face is his personal side and the right is his business side.

Putting this information into focus, if a jury member's bottom eyelids go straight when it is your turn to address the panel, look closer. If you notice the left eyelid is even straighter than the right, without saying a word that person is telegraphing that he doesn't trust you or that he has judged you as belonging to a category not worthy of his trust. If it is the right bottom eyelid that is the straightest, he is communicating that he is suspicious or mistrustful of the information he is being given. Knowing the difference can be a tremendous asset. To immediately address your attention to the person with the straight eyelids on the left and address his secret attitude by openly stating, "Regardless of what attitude you may have about plaintiffs' attorneys, you don't have to trust me. The evidence will show that what I am telling you is the truth." If the right eyelid was the straight one, a better approach would be to look directly at that person and state, "I know it may sound hard to believe at this point, but I promise you that you will be given evidence that backs it up with facts."

An even more important use of face reading occurs after the final jury has been seated. The attorney should always remember that the jury, as the finder of fact, is the real audience. The jurors are the people who must be convinced of the merits of the case. But what is the best way to connect? If you stare at the jury, you may not realize that on a subconscious level your face is communicating a judgmental attitude, which can be very off putting. No one likes to feel judged and a stare will give almost anyone that feeling even if they are not face readers. If you don't look at the jury, you are tying the case in the dark, but if you

take furtive glances, you could be unintentionally projecting a sense of uncertainty or insecurity about issues in your case.

When we are reading a person's face with an honest open attempt to understand that person, our own face does not show judgment. In fact, if someone did not know you were reading his face, he would probably label the feeling he had about the look on your face as recognition or alert awareness. Of critical importance is the fact the jury will be aware that you are present and attentive without projecting judgment, which is perceived as calm and confident. When we are able to be attentive and completely present with another person, we connect. If the jury is ignored, we may be unintentionally projecting that we are really only interested in and paying attention to the thoughts running through our own minds. If the jurors think you have tuned them out, they will tune you out. However, when we are present and connect our worlds and our actions, our very presence is seen

as having more validity and trustworthiness. What is often referred to as charisma is really the ability to be openly genuine and focused on the other person.

As you watch the jury, if you notice that during a witness's testimony you saw bottom eyelids go straight, mouth corners turn down, a finger pressed to the lips, or hand covering the mouth, the jurors just told you that they are not buying that witness's story. Since the jury will often punish the side that they thought was lying, understanding these cryptic messages can be the deciding factor.

At the time of closing arguments, knowing which of the key witnesses the jury didn't trust can be vital. Before attempting to discredit the testimony of a key witness, it is important to know how the jury felt about that witness at the time he testified. Often, the attorney's personal feelings are wrapped up in an involvement with the case, making it difficult for him or her to be objective. It is a tactical error on the attorney's part to ask any

jury to throw out the testimony of a witness they trusted and accept testimony that they found unreliable.

On the other hand, giving some credit to a witness the jury found reliable, while acknowledging and aligning with their doubts and suspicions of the witness they did not trust, will give the attorney's argument greater weight and credibility. In short, it is essential to know which witness's testimony is vulnerable and which should be left alone.

Every part of the face can be read and contains valuable information about the subject's personality traits, habitual attitudes and underlying character. In fact, you cannot put a finger on your face without covering up some piece of information. Understanding the hidden clues and cues on every face will not only help in the jury selection but will also aid in the presentation of the case, establish connection and credibility and provide the needed guidelines for a powerful jury summation.