



Feature

Jury Consultants Continue to be in Hot Demand

By Kim Paton

In the mid-1970s, Dr. Donald Vinson, a marketing professor from the University of Southern California, helped the IBM defense team defeat the Department of Justice’s antitrust claims. At the same time, the National Jury Project, a consulting firm, was pioneering consulting techniques in high-profile political trials. By the close of that decade, a new era in jury and trial consulting had begun.



In 1982, a handful of social scientists formed the American Society of Trial Consultants. Evidencing the growth of the industry, the organization now has about 450 members, hailing from professions that range from psychology to linguistics to law.

Dr. Karen Lisko, a past President of ASTC, enjoys a rather unique position in the trial consulting industry. For the past eight years, she has worked as an in-house consultant at Holland & Hart, LLP, in Denver, CO. She holds a Ph.D. in legal communications and initially replaced a nearby university professor as the firm’s lone consultant. Eventually, she helped grow the firm’s consulting group into a separate, 13-person business called Persuasion Strategies. The business provides in-house service to the law firm, assists clients of the firm in cases involving attorneys from other firms, and markets its own separate client base.

“I’m amazed that more law firms have not done what Holland & Hart has done,” stated Dr. Lisko, a senior litigation consultant. She described her services as a “one-stop shop,” as well as a “revenue source” for the firm. Since the consulting group is in-house, the consultants may provide a role as simple—but important—as hearing an attorney talk through an argument for five minutes at an early stage of the case.

Dr. Sandra Donaldson, director of trial consulting at FirmLogic, LLC, spent 15 years as a trial consultant in Womble, Carlyle, Sandridge & Rice, PLLC’s home office in Winston-Salem, NC. Dr. Donaldson wore many hats while working at the firm, including strategizing with respect to cases involving psychological illnesses and related claims. Eventually, “the need for supplying full litigation support services” and the “demand from other clients” became so great that several employees from Womble Carlyle’s trial consulting, medical specialization, and document specialization groups

started FirmLogic in 2000. Since they all began in-house, Dr. Donaldson believes she and her colleagues innately understand the demands and issues faced by the attorneys.

Whether in-house or from outside the firm, jury consultants or trial consultants provide a wide variety of services, from limited consultations to full-day trial simulations. Some attorneys find the services invaluable; others view it as simply a stage of trial preparation that creates a comfort level for the client and guards the attorney or firm against a malpractice claim. It is no surprise that attorneys are most likely to involve jury consultants in high-profile, high-priced cases.

Stephen Paterson, President and CEO of Vinson & Company, noted that consultants are used most often in civil cases in four major litigation centers: New York City, Chicago, Los Angeles, and Houston. Mr. Paterson indicated that the jury and trial consulting industry thrives even in times of general economic strife. “It is a counter-cyclical business because when the economy goes down, people tend to sue each other more.” As a result, “there is never really a downturn in business.”

Yet, Mr. Paterson is not surprised that few law firms bring consultants in-house and that even fewer spin off separate businesses. The potential for conflicts exists, and jury consultants typically have backgrounds much different than the “traditional” law firm employee.

Mr. Paterson indicated that many consulting firms seek people educated in quantitative skills, such as mathematics and statistics. An entry-level quantitative psychologist with a Ph.D. and little work experience may earn a salary anywhere from \$65,000 to \$110,000 at a trial consulting firm. A person holding a Master’s degree in psychology may earn \$50,000 to \$80,000. A research analyst just out of college may earn \$38,000 to \$43,000.

Based on her experience before going in-house, Dr. Lisko believes that salaries for in-house consultants are competitive



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with salaries at outside consulting firms. She cautioned, however, that some law firms have people on staff who are placed on paralegal-type tracks when those people are actually performing consulting work commensurate with the work of a non-testifying expert. Of course, the flip side of receiving pay and recognition at a higher level is that there may be billable minimums to meet and additional expectations, such as marketing and training responsibilities.

In general, over the past 20 years, Dr. Donaldson has seen an "increase in awareness of all that a trial consultant can do." Any attorney "looking for an edge to prepare for trial" can benefit from the use of a consultant, whether in-house or otherwise.

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