



Vantage Trial Consulting

Kratom Litigation: What drives juror decisions

Part 3: The Art of Jury Selection | Strategies for Plaintiffs and Defendants

by [Dr. Juli Adelman](#) on March 05, 2025

In the first article of our series on kratom litigation, we examined the first U.S. jury verdict involving kratom and the factors that likely contributed to the plaintiff's victory. In the second article, we explored the key factors jurors focus on when assigning fault in kratom cases. In this third installment, we turn to jury selection and identify juror characteristics that plaintiffs and defendants should avoid in kratom litigation. While we recommend consulting with a trial consultant to develop juror profiles tailored to your venue's demographics, the following provides general guidance on questions and issues to consider.

1. EXPERIENCE WITH KRATOM

A juror questionnaire is essential to uncover sensitive information that jurors may hesitate to share openly during voir dire. Key areas to explore include:

- Personal or familial experience with kratom, addiction, or other drugs.
- Professional or medical training that may influence their perspective on drug manufacturers or product safety.
- Advocacy or involvement with kratom, such as selling or using the product.

Privacy is critical when addressing these topics, as jurors are more likely to provide honest answers in a written questionnaire than in open court. This tool can help both sides identify and exclude jurors whose biases may harm their case.

2. JUROR CHARACTERICS TO AVOID FOR PLAINTIFF

Jurors' attitudes toward fault and responsibility in pharmaceutical product liability cases vary widely. Plaintiffs should be wary of jurors who:

- **Believe individuals are solely responsible for their health and the substances they consume.** These jurors often view plaintiffs who use unregulated products as assuming the risks.

- **Exhibit a strong sense of personal responsibility, such as business owners, landlords, or managers.** These individuals may sympathize with defendants, fearing lawsuits themselves.
- **Express skepticism toward lawsuits, particularly those seeking monetary damages.** These jurors often have difficulty understanding why the other party should take the blame for their own choices.

To identify these jurors, consider asking:

- **How do you spend your free time? What clubs or organizations are you a member of?** For example, Religion is something to listen for and assess. How often do they attend church? Does their religion affect their ability to listen to the evidence and render a verdict? Some jurors believe whatever happens is God's will. The same applies to political learning. Do they volunteer at the polls? Are they members of an organization such as the National Rifle Association? American Civil Liberties Union? While both represent someone whose constitutional rights are important to them, they are manifested in different ways.
- **What is your occupation?** Jobs requiring high levels of accountability (e.g., HR professionals, business owners) may indicate a pro-defense bias.
- **What do they think about lawsuits and plaintiffs that sue for money damages?** Have they been a plaintiff or defendant in a lawsuit? Getting a sense of their experience and tolerance with litigation will be important to remove any extreme perspectives that do not believe in lawsuits.
- **Do you trust your doctor?** Jurors who defer to medical authority may question plaintiffs who self-treat with unapproved remedies.
- **Do you read manuals or contracts carefully?** Detail-oriented jurors may blame plaintiffs for not researching kratom's risks.

3. JUROR CHARACTERISTICS TO AVOID FOR DEFENSE

Defendants should avoid jurors who:

- **Conspiracy theorists and/or those who distrust government and corporations.** These individuals often believe that regulatory agencies protect pharmaceutical profits at the expense of consumers.
- **Engage in high-risk activities (e.g., skydiving, motorcycle riding), aka adrenaline junkies.** They are, by nature, less risk-averse and may be more tolerant of using unapproved supplements.
- **Lack job stability.** These jurors may sympathize with plaintiffs and hold businesses accountable for perceived injustices.
- **Have complex or chronic health issues, particularly if they seem disconnected from managing their own health.** These individuals more easily sympathize with plaintiffs who use unapproved products or share similar experiences with poor health.

To identify these jurors, consider asking:

- **Should manufacturers make products 100% safe?** This reveals their expectations of corporate responsibility.
- **Who is more responsible for safety: the user or the manufacturer?** Plaintiff-leaning jurors often believe manufacturers have the resources and expertise to ensure safety.
- **Do you believe manufacturers test their products?** Skepticism about testing practices can indicate a pro-plaintiff bias.

4. General Strategies for Jury Selection

- **Identify extreme views:** Use voir dire to uncover jurors with strong biases that could skew deliberations.
- **Focus on attitudes, not demographics:** While demographics can provide clues, attitudes toward personal responsibility, authority, and corporate accountability are more predictive of verdicts.
- **Leverage juror questionnaires:** Written questionnaires allow jurors to disclose sensitive information privately, providing a clearer picture of their suitability.

Jury selection is a critical phase of kratom litigation, as preexisting juror attitudes can significantly influence outcomes. By identifying and excluding jurors with extreme views, both plaintiffs and defendants can increase the likelihood of a fair, evidence-based verdict. Consulting with a trial consultant to tailor these strategies to your specific venue and case facts is highly recommended.

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