

The Newer Generations in the Jury Box: Who Will Favor Your Cause?

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You could be thinking you'll have the holy grail of selecting jurors based on their age by the time you finish reading this article. You would, though, be sadly mistaken. Why? Because this discussion must start and end with one very important truth: Jurors are more complex in their decision making than their age portrays. Arguably, there are three reasons why.

Reason 1. Solid research continues to find that the biggest predictor of a verdict is the evidence—not who you have on your jury and certainly not the juror's phase of life. However, when the evidence between opposing parties is very close, the composition of your jury matters more than when the evidence clearly favors one party over another.

Reason 2. Jurors' attitudes toward case-related issues are much more telling than are their life experiences and demographic backgrounds. You likely know from your own experiences that someone who is the same age, has the same educational background, and practices the same type of law as you can hold very different beliefs than you do. Given that reality, imagine how much difference there can be between jurors who are of the same generation but have different life experiences.

Reason 3. On the civil litigation front, our private research finds that the most effective way to argue your case is to aim your themes toward the "tougher audience" on the jury. The tougher audience is that segment of the group who is more prone to favor the other side at first. For example, if you represent the defense in a complex contract dispute, pro-plaintiff jurors are your target. They are best persuaded by hearing that your client did the right thing, not simply the legal thing. They will respond to an expert witness who talks to them in a more conversational, no-nonsense manner, rather than a witness who talks in a more formal, academic manner. (Importantly, though, this generalization is not true in intellectual property litigation.)

All of those truths transcend generation. Still, there are some interesting findings concerning jurors and their generational place in the world.

Generations X and Y as Triers of Fact

In particular, we now know more about the newer generations to hit the jury box—Generation X and Generation Y. (And, yes, Generation Z is being defined now. It's unclear what will happen now that we've run out of

letters of the alphabet—but apparently, Generation AA is soon to follow.)

Generation X and Y jurors now account for approximately 40 percent of jurors throughout the United States. Let's review a few highlights of their courtroom behavior.

Generation X jurors tend to:

- Want more data and the source behind it but presented in a concise, technological (screen-view) way
- Focus on the pragmatic and how a case relates to their own lives
- Be fairly entrepreneurial and impressed with parties who take ethical risks in business
- Hearken back to many traditional values that we typically correlate with older jurors, in particular with a focus on "personal responsibility" and "self-reliance"
- Want the "bottom line" on conclusions the experts draw

Generation Y jurors tend to:

- Want even more presented technologically than do the technologically savvy Generation X jurors
- Be the best-educated generation of all time, with an ability to think more analytically about case facts as a result
- Be more interested in teamwork and "getting along" in the deliberation room
- Be more interested in 9-to-5 jobs with a reliable employer, giving them respect for parties who follow through on their commitments
- Feel less suspicious than other generations do toward the government, indicating an opportunity to impress them with a party's ability or inability to meet governmental or industry standards

So, now that you're at the end of the article, I must, as promised at the start, end with the essential truth: There is no holy grail when it comes to assessing jurors generationally. You must look much more deeply at jurors' case-specific attitudes across the board. Only then do you have a chance at appreciating the complexity that makes them disconcerting—and admirable.

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