

The Four Waves of Generations In the Jury Pool

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"Each generation imagines itself to be more intelligent than the one that went before it, and wiser than the one that comes after it."
George Orwell, English novelist and journalist, b.1903 - d.1950.

Any jury composition is a potpourri of personalities, with the generational characteristics ever changing with time. This newsletter presents a quick reference guide to the generations typically seen in the courtroom as counsel endeavors to select a winning jury.

The characteristics presented in this newsletter are from general observations in the courtroom, voir dire statements, post trial interviews, and on-line chat rooms. This discussion begins with the two most predominant generations apparent in any jury pool.

Generation X — approximate birth years of 1965 to 1980

Bottom line: The resilient generation.

Gen Xers grew up during the birth of the internet and forged their identities during the information age revolution. They have the knowledge of multi-media sources and of instant communication. Due to this unique experience, they expect counsel to present electronic evidence that is quality, concise, honest and transparent.

When Gen Xers first started appearing in the jury pools, they presented as a tough crowd, particularly for plaintiffs. At that time, known as the "generation of doubters," they often argued in deliberations for smaller damage awards. Today, they explain that their generation is less about *doubting*, but rather more about *questioning*.

Politically, they are coming of age with Gen Xer Paul Ryan selected as the Republican Vice Presidential candidate in the 2012 presidential election. Other general characteristics are as follows:

- They were children when the electronic revolution happened, and therefore, were directly impacted in the transition from written to electronic communication. They learned to navigate the fast paced changes of how we communicate to others.
- They are more open to awarding significant damages because they have experienced some hardships and challenges; their thinking and analysis has expanded from their earlier days of jury service. For example, they understand the depth of post traumatic stress syndrome, with some of their friends and family returning home from the wars of Desert Storm, Iraq, and Afghanistan with permanent injuries. From this, they seem to express more empathy.
- They are edging out Baby Boomers as the managers and supervisors in the workplace as they are approaching their prime work years.
- Economic circumstances have readjusted their thinking on job security and financial stability. During the prosperity of the mid 1990's, switching jobs every few years seemed to be the norm and fundamental to career advancement. The economy's strength meant not worrying about their financial future. Thus, with the dot-com crash of 2000 and the Great Recession beginning in late 2007, the irrational exuberance of the good times dissipated and forced them to be more honest with themselves about their lifestyle and future.

Questions for voir dire:

What are your sources of news on the internet?

Do you seek out sites with different political or social viewpoints that you may not agree with?

Do you ever respond or post to on-line blogs?

In five years, what is your vision of success for yourself?

Baby Boomers — approximate birth years of 1946 to 1964

Bottom line: The age defying generation.

This generation divides into two groups, each of which experienced different events in their formative years, particularly during the teen years. The divide appears to be as follows: The first Boomer age span from 1946-1955; the second set of Boomers from 1956-1964. Whereas the older Boomers were instrumental in the transformational social and political changes, for the younger Boomers it seemed to be a less strident, yet cynical society by the time that they reached high school after the close of the Viet Nam War and the scars of Watergate. The older segment of Boomers is now retired or approaching retirement, therefore, their ready availability for jury duty means that they remain a persuasive component in the deliberation room. Here are some other characteristics:

- Team player, and respectful of pecking order in the workplace.
- Hard working, willing give up personal time for job advancement, financial security, consumerism; belief that work provides unique life experiences.
- Goal oriented; this generation took advantage of educational opportunities.
- The first generation to believe there is less stigma about divorce and multiple marriages.
- The last generation to believe that the definition of the American dream means a lifestyle more affluent than that of one's parents.
- In the deliberation room, they understand the potential for money damages to compensate for life's unanticipated losses but it must be a fair deal. This generation works hard for their money.

Questions for voir dire:

What is an opinion that you once held but because of a life experience, you changed your mind?

What was an event or life experience that you would describe as one that helped shape your character?

What is a character trait that you most admire?

The Millennials, also known as Generation Y — approximate birth years of 1981 to 2000

Bottom line: The technology generation.

This generation is the youngest generation present in the jury pools, but certainly not intimidated by their youth when interacting with older people whether in deliberations, in the workplace, or in a social discussion. They have had to recalibrate their expectations about their future, particularly with job opportunities, career goals, and prospects for future financial security. By comparison to the generation before them, they acknowledge that even finding a job poses challenges that Generation X did not face when they entered the workforce during the booming economy of the '90s. Thus, they strive for stability, but know that this means, in some instances, patching together several lower paid jobs just to have work experience on their resumes. In voir dire, they speak of their school debt, and express their concern about being able to pay it back. Many Millennials live at home, either after graduating from college (the boomerangs), or never moving out because of financial instability. Overall, this generation understands how the long economic stagnation has impacted their future. Despite this, they express hope that their future will be bright. Other characteristics of the Millennial generation are as follows:

- Technology is central to their lives, thus the rite of passage to independence is their cell phone (and not a drivers license).
- Gaming on the computer is rampant and addictive; it has created a new DSM-5 diagnosis: "internet use gaming disorder."
- Communication through social networking predominates over hanging out with friends; use social media to seek out romantic interests.
- Confident in their opinions/decisions.
- Can be dismissive of older people who offer opinions different from their own (observed in mock trial deliberations).
- In the workplace, Millennials seem to be less astute about social cues because their interaction is through media and less so person to person; thus, they can offend older workers with their forthright, and even brash, manner.
- They view social issues as rooted in *equality* (less racial bias and less sexual orientation bias) whereas their parents viewed it as questions of *morality*.
- The female Millennials express disbelief about past gender discrimination and indignities in the workplace experienced by female Baby Boomers. In fact, they admit to taking for granted what the older generations of women achieved in seeking gender equality.
- Consider technological changes as contributing to the generation gap between them and their parents. They perceive their Baby Boomer parents/grandparents as being easily flummoxed by changing technology.
- Believe in the work-family life balance after witnessing the hard driving Baby Boomer parents work long hours and give up personal time in response to employers' demands.
- Resigned to debt from educational loans. The more educated Millennials demonstrate less shock value to larger damage requests because they live with six figure student loan debt.
- Technology in the courtroom is expected by younger jurors and, for counsel, its presence provides a method of bridging the multigenerational divide. With long opening and closing arguments, absent any visual accompaniment, this group shuts down and indicates boredom.

Questions for voir dire:

What technology do you own and use?

Do you have a blog, tweet or have a Facebook page and what types of topics do you discuss?

What is your impression of the work world and how you would change it for the better?

What would be the ideal job or career for you?

What does privacy in your life mean to you?

The Traditionalists — approximate birth years before 1946

Bottom line: The moralist generation.

Still present in the jury pools, they will gladly serve if not hindered with a hardship. In mock trial deliberations, they express opinions when asked but they do not overwhelm others to be heard. Rarely do they present themselves as an outlier personality with an agenda to disrupt attaining consensus. Some general characteristics of this older generation:

- Moralistic, judgmental.
- Caught up in cultural biases.
- Respect authority.
- Personal image important – Pride to protect family name, family honor.
- Traditions dominate.
- Mourn the loss of the nuclear family.
- Mastering technology is challenging.
- Their frame of reference for the future is based on their grandchildren's lives.

Questions for voir dire:

What job was most fulfilling to you and why?

What advice would you give a young person starting out today?

What are you most proud of as you reflect on your life?

Conclusion — Transcending Generations

The four generations all have distinct idiosyncratic styles. In seeking to understand and engage jurors, counsel can transcend the generations by:

- Having a presence of authority (voice, demeanor, knowledge);
- Presenting an ability to speak extemporaneously, and;
- Laying out the evidence concisely and using technology proficiently.

In the end, a transcending presentation motivates jurors to work together in achieving a just and fair verdict. From that, they will reflect back on a positive jury experience.

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