



# Generation X and Y's Influence in the Jury Box

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*by Carol L. Bauss*

**G**eneration X is no longer the new kid on the block. By now, the older members of this generational cohort are approaching the age of 40 and have settled into the workforce and started raising families. They have been exhaustively studied and every nuance of their behavior and attitudes dis-

cussed in articles. Meanwhile, the first-born members of Generation Y, Generation Next or the Millennial Generation, as they are sometimes called, have graduated from high school and started receiving juror summonses. They are the 20-something person sitting in the jury box furtively sending text messages with an iPod peeking out of his pocket.

Who are these mysterious and technologically savvy young people who are showing up in the jury box? Let's meet Generations X and Y and try

to gain a better understanding of the cultural, social and political influences that have shaped the attitudes and values of these generations and then translate those insights into practical tips for communicating more effectively with younger jurors.

Although various demographers have slightly different criteria for classifying the generations, for purposes of this article, Generation X covers people ages 27 to 41 and Generation Y covers people ages 19 to 26. Together these two cohorts make up approximately 40% of the jurors today.

It is important to remember that jurors are very complex in their decision-making and demographics is one small piece of the puzzle that explains how individual jurors analyze and evaluate a particular case. We know that any two individuals born in the same year can have dramatically different world views based on their life experiences and attitudes and that describing a generation of people as a homogeneous group has limited value. Generation Y is particularly difficult to pigeonhole because they are the most diverse generation in history. One in three is non-Caucasian. But while the study of generational cohorts is necessarily broad-brush in nature, many trial attorneys have strong opinions about young jurors, and a better understanding of who these people are and what may in part be influencing their decision-making is instructive and can inform trial preparation.

### A snapshot of Generation X

They grew up in the 1970's, many from split households, the product of the highest divorce rate to date at the time. With both parents in the workforce they were left to fend for themselves after school giving rise to the term "latchkey children." Many of those hours were spent in front of the television. This independence at a young age instilled in them the values of personal responsibility and personal reliance.

The backdrop of nightly news included the Iran-Contra Affair, the Gary Hart/Donna Rice scandal of the 1988 presidential election and Jim Baker's resignation from his PTL empire in the wake of allegations of ethical and business improprieties. These scandals undermined Generation X's respect for political, religious and corporate institutions and it is no wonder they are often characterized as cynical and have been found to have less deference to authority than other generations.

They were raised by Boomer parents who valued career, money and public recognition of

work accomplishments. They watched those career-focused parents work for years for the same employer only to be laid off as they approached retirement age. They lived through the recession in the early 80's and again in the early 90's as they were entering the work force. As a result, they are more interested in trying to find a balance between work and family and feel no loyalty to a company, readily changing jobs to accommodate their own personal fulfillment and lifestyle. They are also less interested in the status associated with a career and more interested in making time for recreational activities. Quality of life is their motto.

Generation X is technologically sophisticated, entering adulthood just as computers and the Internet were becoming mainstream. They take in much of their information via television and the Internet and are used to fast paced, multi-media presentations.

### A Sketch of Generation Y

Generation Y shares many of the same traits as the generation before it with some striking differences. Generation Y is the first generation to come of age with personal computers, access to the Internet and cell phones. Text messaging, instant messaging, and email allow for constant communication and broader connections with friends and family. According to a study conducted by the Pew Research Center in 2006, just over half of the members (51%) of Generation Y (aged 18-25) sent or received a text message in the previous 24 hours. This is in contrast to 26% of Gen Xers. (The Pew Research Center For the People and The Press, *How Young People View Their Lives, Futures and Politics: A Portrait of Generation Next*, Jan. 2007.) Many young people today have an online media presence with pages on social networking sites like Facebook and MySpace. 54% of Gen Yers have used a social networking site. (*Id.*)

Increasing dependence on technology and globalization has changed the workforce. As a result, this is the most educated generation. Technology has also changed the way young people access and process information. Gen Y researched term papers by typing their topic into Google rather than going to the library and looking in reference books. They are adept at getting information at the touch of a finger from a wide variety of sources. This easy access to data has made them more analytical, able to sift through vast amounts of data quickly culling the most

important points.

Politically, they are fairly liberal, more progressive in their views regarding controversial issues like gay marriage and immigration than past generations. 45% believe the growing number of immigrants in our country has helped American workers while, in contrast, that percentage steadily declines with age. 33% of Gen Xers view immigration positively and only 23% of Boomers see it as positive. (*Id.*) Almost half (48%) of this generation identifies more with the Democratic Party than the Republican Party (35%), more so than any other generation, even at this stage in life. (*Id.*)

One way in which Generation Y differs significantly from Generation X is that they are less cynical about how government operates and about the job political leaders are doing in Washington. Well over half of Gen Yers *disagree* with the characterization that "When something is run by the government, it is usually inefficient and wasteful," while half or 55% of the general public *agrees* with that statement. (*Id.*) Similarly, they are not as skeptical of big business. Most Gen Yers believe that business corporations generally strike a fair balance between making profits and serving the public interest, in comparison to 58% of older Americans who disagree. (*Id.*)

Gen Yers' frequent interaction with technology and high level of education has created strong communication skills. They are used to working in teams and are comfortable in a diverse crowd. Consequently, they can hold their own in the jury room among jurors of different races and ethnicities and among older jurors and may play a more important role on your jury than you might assume.

### What are the practical applications for litigators?

First, in voir dire, take advantage of the vast amount of information young people are posting online about themselves. If you have the time and the staff, Google your prospective jurors. You will be amazed at the treasure trove of information you can uncover about an individual on the Internet. In voir dire, don't forget to inquire about any blogs a prospective juror might write or to which they contribute.

As a plaintiff's attorney, beware of the "move-on" mentality expressed in employment cases. Young people are used to moving around in the workforce, changing jobs if they are unhappy or unfulfilled. Entitlement to a job and loyalty to an

employer are foreign concepts for many of these younger generations. As a consequence, they are more likely to expect a plaintiff to get over her loss of a job more quickly and move on and get another job.

Use a multimedia presentation. Graphics have to be an integral part of every case presentation. Most people under 40 live a multimedia life juggling information taken in from television, the Internet, email, cell phone, BlackBerry, etc. For that matter, the world we live in today is packed with visual stimuli and any juror will better understand your case if the arguments are presented both visually and orally. Having an attorney stand and talk at the jury for days or weeks on end without any visuals is an outmoded means of communication that has been proven ineffective. Jurors, like anyone else, will take in more information and process it better if you use a variety of media that engage both the right and left brain. Make your presentation as interactive as possible. In order to be persuasive, you have to communicate with your audience in their language and for young people today that means using a variety of visuals.

Depending on your budget, you may decide to hire a firm that specializes in legal graphics or use some of the many programs available today like PowerPoint or Trial Director to create your own charts, graphs, timelines, and the like. In general, it is not necessary to worry about appearing too "slick" or having more resources than your opponent. Younger jurors today *expect* you to use technology and all jurors will appreciate any tools that help them better understand your arguments.

Streamline your case presentation. Generation X wants the bottom line and doesn't want a presentation that seems designed to manipulate or appeal to emotion. Both Generations X and Y take in vast amounts of information on a daily basis from multiple sources and are used to finding what they need to know quickly and efficiently. They are more concrete thinkers than their predecessors, the Baby Boomers. Organize your presentation to lead with your conclusions and then methodically list the facts that support that conclusion. Use graphics that highlight your main points to serve as a visual anchor.

Generations X and Y have been heavily influenced by the media and the way that stories are told in the media. The narrative structure of your case presentation should contain all the ele-

ments of a good screenplay: good guys and bad guys, clear motives, a sequence of events and choices, a crisis and resolution of that crisis. As much as possible, relate the case to the jurors' lives and invite them to become part of the story by providing the resolution of the crisis in the verdict. Gen Xers, especially, like to know how the case relates to their own lives and should be made to feel empowered that they have an opportunity to actually fix something that is wrong in our society.

Generation's X's skeptical nature may make them question the authority of expert witnesses. Our research shows that degrees and credentials are less persuasive to most jurors than hands-on experience in the area for which the expert is asked to testify. Furthermore, jurors pay the most attention to experts who are good teachers and appear objective without any agenda.

Pragmatic, self-reliant Gen Xer's may not be receptive to damages arguments focused on pain and suffering and emotional distress which makes the plaintiff seem dependent and weak. But reframing the harm to the plaintiff as a *lost opportunity* to participate in normal life including recreational activities and leisure time may have more traction.

Generation Y, with its greater faith in government, may be especially receptive to an argument that your corporate client is not negligent because it met all the applicable governmental regulations in effect at the time.

It is the 21<sup>st</sup> Century and Generations X and Y have claimed their chairs in the jury box. Attorneys have to keep pace with the rapidly changing environment and be better armed in jury selection about the potential attitudes and values held by these younger jurors and adapt their communication strategies to target these Gen Xers and Gen Yers.



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