

The Changing Face Juries

Younger jurors process information differently than Baby Boomers, which means finding new ways to appeal to them

Generation X (born 1965-1976) and Net Gen (born 1977-1997) were raised in the information age, and the way they process, evaluate and retain information is very different from Baby Boomers (born 1946-1964) and Traditionalists (born 1901-1945), who make up most of the senior partner/lead trial lawyer ranks.

Understanding the context in which a person came of age can significantly affect trial strategy. By taking generation-specific characteristics into account, trial lawyers can improve their ability to communicate in the courtroom on multiple levels, especially when trying to convey complex information to a jury in a digestible form.

As Gen X and Net Gen charge into leadership roles and the work force, respectively, these two distinct but similar groups are poised to have an increasing impact on American culture and the American courtroom. Gen X, the so-called "slacker" generation, has grown up. Its



NOT YOUR FATHER'S JURY POOL:

William Leon waits in a San Francisco Superior Court jury selection room with other potential jurors. More than 40 percent of San Franciscans are Gen Xers.

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members are 27 to 38 years old now, preparing to take over leadership positions from retiring Baby Boomers.

Currently, there are 44 million Gen Xers in the work force, and approximately 44 percent of all citizens in San Francisco County are part of Gen X. Even more important, the oldest Net Gens (6 to 24 years old) are graduating from college and entering the work force. At 80 million strong nationwide, Net Gen rivals the infamous Baby Boomers in number. Within the next five years, approximately 50 million Net Gens will be eligible for jury duty. That's a whopping 30 percent of the current U.S. population.

GENERATION X

From 1965 to 1976 birthrates declined and that time period became known as the "baby bust" years. Born during the tumultuous times of Vietnam and Watergate to Baby Boomer parents, many who spent more time at the office than at home, this generation experienced a tripling of the divorce rate while they were

growing up. The terms "latchkey" and "downsized" defined experiences. The difficult economy of the '80s and political scandals like Iran-Contra added to their adolescent turmoil. Is it really any wonder that this generation is skeptical of almost everything?

THE NET GEN

Born between 1977 and 1997, and encompassing 81.1 million people, they have always known AIDS, a unified Germany, answering machines and remote controls. They have never seen a pull-tab can, and many of them only associate Paul Newman with salad dressing. But the most important thing to understand about this generation is the effect the Internet has had on their lives.

According to U.S. Census information, between 1995 and 2000, home access on the Internet grew from 10 percent to 46 percent, and that number has certainly grown since. The very nature of media has changed with the Web. Before the Internet, there was only broadcast

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and print media, but the new online media, because of its “many-to-many” nature, is intrinsically more inclusive. The Internet is interactive; it requires participation, not idle observation. This has had an enormous impact on the way this generation learns new concepts, perceives information and assigns credibility.

PRACTICAL APPLICATIONS

How can you use this information to be more effective in the courtroom?

Develop themes that resonate and test them. These steps are more important than ever before. One in three Net Gens is not white, one in four lives in a single-parent household, and three in four have working moms. Diversity of experience is a reality. A less homogeneous jury pool allows for a wider range of interpretations of your case. You must put your case in front of a diverse mock audience to ensure the themes you think will sell actually will.

Embrace technology. Technology is no longer a luxury; it is mandatory. Younger jurors simply do not understand why lawyers are afraid of technology. The argument that something is too “slick” is arcane, given the nature of technology to the younger set. To them, technology is invisible; they only see it as a means to an end.

Exploit multiple opportunities to score. You may have more time to make that “first” impression, especially with Net Gens. They tend to change loyalties at the speed of a mouse click. Since they are less likely to become entrenched in their thinking, you may have more opportunities to make your case than you would with an older juror.

Emphasize facts. Many Gen Xers grew up quickly, and Net Gens have been on the receiving end of a marketing onslaught since they were old enough to point. Both generations have finely tuned analytical skills that enable them to sift through large amounts of information. Because they have seen nearly every American institu-

tion, from corporate America to the presidency, called into question, they take almost nothing at face value. Furthermore, the youngest have been analyzing data they find on the Web and learning to authenticate that data through multiple channels most of their lives. Their innate skepticism and cynicism about the world makes them much more likely to be swayed by facts, rather than plays on their sympathy.

Assign less weight to expert testimony. The Internet is egalitarian in nature, not hierarchical; and the younger generations are more skeptical of power. On the Internet, the established media has been forced to relinquish its stranglehold on information. Much of the Web-based information comes from non-establishment sources, and much of that information is as credible or more credible than what comes from the established media outlets. Some of the harshest cynicism in the younger set is reserved for establishment or “expert” information sources.

It’s not that the younger jurors will dismiss your expert entirely; it’s just that a slew of graduate degrees will not likely be enough to influence them. Valuable information and solid communication skills will be more important to Gen X and Net Gen jurors.

Mistakes are frequently made if you only apply tired conventional wisdom to jury selection when considering Gen X and Net Gen jurors. Here are four myths about the younger generations to keep in mind the next time you prepare to exercise peremptories.

Myth No. 1: Gen X and Net Gen are “slackers.” These generations were the first to be raised primarily in broken homes. Rather than becoming whining victims, they have grown up to be particularly self-reliant. Most jurors in these age groups believe they are more likely to see a UFO than a Social Security check with their name on it, and they generally believe almost nothing is guaranteed.

Myth No. 2: Republicans and Democrats are polar opposites. Party affiliation

on that juror questionnaire may not mean much when considering younger jurors. Even though a young juror might note a political affiliation, the strength of that affinity might be questionable at best. Most in these groups believe there is little difference between the parties, and a full 44 percent of 18-29 year olds consider themselves Independents.

Myth No. 3: Earrings and tattoos are anti-establishment. Stereotypes mean even less than they once did. Long hair and an earring meant something in the ’60s. It means nothing now. Over-emphasis of weary stereotypes has always been a pitfall in jury selection, especially when older lawyers are considering the masses.

Myth No. 4: The younger generations are morally bankrupt. Statistics show that today’s young parents (who are Gen X) are spending as much time at home with their families as their grandparents did in the ’50s. Gen Xers are also saving more money at a younger age and a faster rate than their parents did. Remember, most Gen X and Net Gen kids come from Baby Boomer parents, many of whom spent more time at work than anywhere else. It might have taken Gen X awhile to find a direction (hence the “slacker” title), but perhaps they were trying to be sure they got it right.

Baby Boomer and Traditionalist litigators tend to cling to their conventional methods, but these same seasoned veterans also know the importance of using every shred of helpful information to assist them in their quest for victory. Generational insight is one more tool to add to your trial arsenal.

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