



2014 CLM Annual Conference

April 9, 2014 – April 11, 2014

Boca Raton Resort

501 E. Camino Real

Boca Raton, FL 33432

Panel Session 1: Thursday, April 10, 2014 (2:00 pm – 3:00 pm)

The Millennials in Action: Lessons Learned about Juror Decision Making from Mock Trials

Using video highlights from mock trial deliberations and data from seven hundred surrogate jurors, this trial-savvy panel will share their findings and views about how the Millennials as jurors and their decision making processes. The panelists will explain how mock jury deliberations and interviews with real juries have shown how these jurors make decisions regarding liability, causation and damages. This information establishes useable guidelines for evaluating the likelihood of successfully presenting your case to a jury. These guidelines influence strategic decisions made during discovery, mediation and preparing cases for trial. The session will include an explanation of how mock trials, focus groups and the knowledge gained from surrogate juror deliberations can create a unified understanding of a case by all of the stakeholders in the litigation process.

1. Who are the Millennials?

The Millennials are the largest and most diverse generation. There are more than seventy-five million Millennials. Millennials are very multi-cultural (41% are non-white) and they generally embrace diversity and new experiences. However, much of the popular reporting on Millennials has not embraced this diversity. Instead, it has focused on the most visible subset of the Millennials, the children of white upper and middle class whites. Reporting on Millennials has attributed the views of this subset of the Millennial generation to all Millennials. While there are many attributes and values of this subset that can be generally ascribed to all Millennials, in evaluating Millennials on juries it is important to remember that there are significant differences that need to be considered before making blanket statements about how Millennials will make decisions. The following chart gives an overview of the Millennial generation and the attributes and core values often associated with them.

Traditionalists		Baby Boomers		Generation X		Millennials	
Birth Years	1900-1945		1946-1964		1965-1980		(1977-1994) 1981-2000
Current Age	63-86		44-62		28-43		8-27
Famous People	Bob Dole, Elizabeth Taylor		Bill Clinton, Meryl Streep		Barak Obama, Jennifer Lopez		Ashton Kutcher, Serena Williams
#	80 Million		51 Million		75 Million		
Other Names	Veterans, Silent, Moral Authority, Radio Babies, The Forgotten Generation		“Me” Generation, Moral Authority		Gen X, Xers, The Doer, Post Boomers, 13 th Generation		Generation Y, Gen Y, Generation Next, Echo Boomers, Chief Friendship Officers. 24/7’s
Core Values	Adhere to rules Conformers/Conformity Contributing to the Collective good is important Dedication/Sacrifice Delayed Reward Discipline Don’t question authority Duty before pleasure Family Focus “Giving Back” is important Hard Work Law and Order Loyalty Patriotism Patience Respect for authority Responsibility Savers Stabilizing Trust in Government	Anti war Anti government Anything is possible Equal rights Equal opportunities Extremely loyal to their children Involvement Optimism Personal Gratification Personal Growth Question Everything Spend now, worry later Team Oriented Transformational Trust no one over 30 Youth Work Want to “make a difference”	Balance Diversity Entrepreneurial Fun Highly Educated High job expectations Independent Informality Lack of organizational loyalty Pragmatism Seek life balance Self-reliance Skepticism/Cynical Suspicious of Boomer values ThinkGlobally Techno literacy	Achievement Avid consumers Civic Duty Confidence Diversity Extreme fun Fun! High morals Highly tolerant Hotly competitive Like personal attention Self confident Socialability Members of global community Most educated generation Extremely techno savvy Extremely spiritual Now! Optimism Realism Street smarts			
Attributes	Committed to company Competent	Ability to handle a crisis Ambitious	Adaptable Angry but don’t know why	Ambitious but not entirely focused. Look			

	<p>Confident Conservative Dedication Doing more with less Ethical Fiscally prudent Hard-working Historical viewpoint Honor Linear work style Loyal to organization/employers (duty, honor, country) Organized Patriotic Respectful of Authority Rules of conduct Sacrifice Strong work ethic Task oriented Thrifty-abhor waste Trust hierarchy and authority</p>	<p>Anti-establishmentism Challenge Authority Competent Competitive Consensus Leadership Consumerism Ethical Good communication skills Idealism Live to work Loyal to careers and employers Most educated as compared to other 3 generations Multi-taskers Rebellious against convention beginning with their conservative parents. Traditionally found their worth in their work ethic but now seek a healthy life/work balance Optimistic Political correctness Strong work ethic Willing to take on responsibility</p>	<p>Antiestablishment mentality Big Gap with boomers Can change Crave independence Confident Competent Ethical Flexible Focus on Results Free agents Highest number of divorced parents High degree of brand loyalty Ignore leadership Independent Loyal to Manager Pampered by their parents Pragmatic Results driven Self-starters Self sufficient Skeptical of institutions Strong sense of entitlement Unimpressed with Authority Willing to take on responsibility Willing to put in the extra time to get a job done Work/Life Balance Work to live</p>	<p>to the workplace for direction and to help them achieve their goals. At ease in teams Attached to their gadgets & parents Best educated - Confident Diversity Focused - Multiculturalism Have not lived without computers Eager to spend money Fiercely Independent Focus is children/family Focus on change using technology Friendly Scheduled, structured lives Globalism (Global way of thinking) Greatly indulged by fun loving parents Heroism -Consider parents their heroes High speed stimulus junkies Incorporate individual resp. into their jobs. Innovative-think our of box Individualistic yet group oriented Invited as children to play a lead role in family's purchasing and travel decisions</p>
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				Loyal to peers Sociable -Makes workplace friends “Me First “ Attitude in work life Most doted upon of any generation@work Net-centric team players Open to new ideas Optimistic Parent Advocacy (Parents are advocates) Political Savvy (like the Boomers) Respect given for competency not title Respectful of character development Self –absorbed Strong sense of entitlement Techno Savvy - Digital generation Think mature generation is “cool” Want to please others Hope to make life contributions to world Very patriotic (shaped by 9/11) Seek responsibility early on in their roles
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2. Expectations of Millennials

As shown in the chart, Millennials have extremely high expectations. These expectations express themselves in issues related to trial in many ways. First, Millennials believe that anything is findable. In the age of Google and Wikipedia, it is very hard for them to

accept that there is not a chart or simple explanation easily available for any concept they are not familiar with. In the video clips, you will see the surrogate jurors not believing there is not a comparison chart that would tell them how much they should award in damages for pain and suffering. Millennials are also big believers in policies and procedures. You will see in the clips multiple Millennial surrogate jurors explain the importance of following the established procedures and why it is negligence not to do so. They see policies as being protections and want to punish individuals and especially corporations that do not establish and follow proper policies. They expect everything to be written down. You will see in the clip the Millennial juror comment that there are written records of when the bathroom was cleaned, so it is not believable when a company claims they do not have records. Millennials also are extremely security conscious. From Columbine to 9/11 to Sandy Hook, they have no reason to believe they are safe anywhere. One of the clips shows the anger they have at a defendant who did not take proper security precautions.

3. Distrust of power structures

Another defining aspect of Millennials that influences their decision making process is their distrust of power structures. They are extremely cynical and constantly check to make sure they are not being “fooled”. They very much want to avoid being told by their peers that “You believed them when they told you that?” This makes them resistant to appeals to authority. They will demand to see the “proof” of any statement made in the courtroom. This distrust of power structures expresses itself in strong anti-corporate beliefs. The clips will show the Millennial jurors expressing disbelief of anything a corporation says. It is not surprising that Millennials have these beliefs. They have gone through Enron, multiple stock market crashes and other market bubbles, the Great Recession, Iraq and other events that have tested the trust that individuals have in established institutions. In addition, unemployment and underemployment rates among Millennials are extremely high. In 2013, 16% of Millennials were unemployed (and up to 28% for African-American Millennials). Of the Millennials with jobs, almost half are only employed part time. The lack of economic security combined with the experiences they have had while growing up combine to make for a generation that is willing to believe the worst about any corporate defendant.

4. High usage of technology

It will be no surprise to anyone that Millennials embrace technology. You will see in one of the clips a Millennial juror attempting to find a definition on her smart phone even when told to put it away by the moderator. This is becoming a common problem in deliberations across the country. In addition, Millennials expect the “stories” that are told in the courtroom to have technological components. 60% of Millennials expect use of timeline software to organize the “story” of the case, and 97% of Millennials expect non-live video testimony to be on video. In determining how to present information to Millennials in the courtroom, care must be taken to balance the needs of these Millennials to have their technology “fix” without alienating jurors from other generations.

5. Very open to awarding high damages

Not surprising given the attitudes of Millennial jurors, they are open to awarding high amounts of damages. Their anti-corporate beliefs cause them to feel that corporations have “lots of money” and need to be “sent a message” when they don’t “do the right thing. However, analysis of mock trial data shows that it is not as simple as saying Millennials will be “bad” jurors for defendants. The following chart shows a summary of damage awards of 700 surrogate jurors in 37 different mock trials conducted in venues across the country.

	% Defense Jurors	Median Award	# of surrogate jurors
All Surrogate Jurors	46	4M	700
All Non-Millennials	48	3.5M	571
White Non-Millennials	54	3M	345
Minority Non-Millennials	39	6M	226
All Millennials	39	6M	129
White Millennials	47	4.02M	64
Minority Millennials	29	9.7M	65

As you can see, Millennial jurors gave a median award of \$6M in comparison to a median award of \$3.5M to non-Millennials. However, most of this difference was driven by the damage awards of minority Millennials. These surrogate jurors gave a median award of \$9.7M, by far the highest of any generational sub-group. White Millennials were somewhat more likely to award more in damages than white non-Millennials (\$4.02M median award to \$3M median award), but the White Millennials median award was very similar to the award of all surrogate jurors. This

analysis shows that blanket statements about Millennials as jurors are problematic, and that minority Millennial jurors are more likely to express the Millennial attitudes that will lead to deciding to award higher damages. In addition, all Millennial groups are likely to have lower rates of anti-litigation beliefs such as thinking there should be strict limits on the amount of damages juries can award. While this data is grim, research also shows that certain themes, such as personal responsibility and accepting the consequences of your choices, resonate especially well with Millennial jurors and can be used to counteract many of their pre-existing negative attitudes.