

GENERATION-Y JURORS

New College-Age Group Is Less Suspicious of Institutions

By Christa Zevitas

You're probably just getting used to Generation-X – that new breed of jurors raised during the Information Age and weaned on MTV. Well, now there's another group of youngsters entering jury boxes around the country: Meet Generation-Y.

Also known as the "Millennial Generation," "Generation Next" and the "Echo Boom," this is the generation born between 1978 and 1994 – ages 6 to 22 – and they're not just a younger version of Gen-X.

They're less suspicious of government, more prone to expect personal responsibility and even more tech savvy than their older peers.

While Gen-Ys compose only about five percent of the nation's jury population, that percentage is greater in some cities and towns, especially in college areas. Attorney Blake Rubin, an assistant district attorney in Boston, says that between 10 and 20 percent of jurors he sees are Gen-Ys.

"It's very common to get at least one [Gen-Y] on each seven-person jury," says Rubin. He adds that because the courts allow college students to postpone their jury duty until school's out, there are typically at least two Gen-Yers on juries during the summer.

Even though the oldest Gen-Ys are close in age to the much studied Gen-Xers, lawyers emphasize that the younger generation has different characteristics, and that these attitudes can affect the way juries vote.

Experts therefore urge trial lawyers to research Gen-Y and to reach out to them during trial, whether it be through more cutting-edge graphics or through using analogies that make sense to Gen-Yers.

"If you are an excellent 50- or 60-year-old trial attorney, you have to keep up with what's going on with younger people and what it is about their life experiences that will hit their heart-strings," says Jennifer Jerit Johnson, a Chicago attorney who heads the Defense Research Institute's trial tactics and techniques committee. "If you don't, you'll be boring and dusty."

At the same time, Johnson and other attorneys strongly caution lawyers against relying too heavily on generational demographics in choosing a jury and in preparing for trial.

"As a trial attorney, you need to recognize that each juror is a person who has unique life experiences and unique responses to those experiences," says Johnson. "It would be dangerous for lawyers to try to pigeon-hole a potential juror by making assumptions based on the juror's age, wealth, gender or race."

"Having said that, however, there are common threads that bind a generation together and lawyers should be sensitive to those characteristics."

What's New About Ys

Both Gen-X and Gen-Y are racially diverse generations who, in general, are more accepting of different lifestyles, cultures and ethnic groups.

But Gen-Y diverges from Gen-X markedly in several ways, all of which can affect the outcome of a trial, experts say. Jury consultants, sociology professors and lawyers agree that this new group of young people differs from its immediate elders because they are:

• Technologically savvy.

"While Gen-Xers were introduced to PCs in high school or college, PCs are like Gen-Y's pen and paper," says Johnson.

"Computers were never something they had to learn," says Adrienne LaFevre, a jury consultant for Chicago's Zagnoli McEvoy Foley.

This means that the special effects in "Star Wars" are pathetic to Gen-Yers – something that trial attorneys should keep in mind when putting together graphics to support their arguments in court.

"Gen-Yers aren't going to see the most high tech presentations as flashy or slick," says Johnson. "They're used to it, they don't think it's a big deal and they expect it. And if you don't have it, they might think 'What goofballs these lawyers are. They haven't prepared their case very well and it's boring to me.'"

Johnson notes that defense attorneys in particular should remember to step up their trial graphics when they have Gen-Yers on their jury.

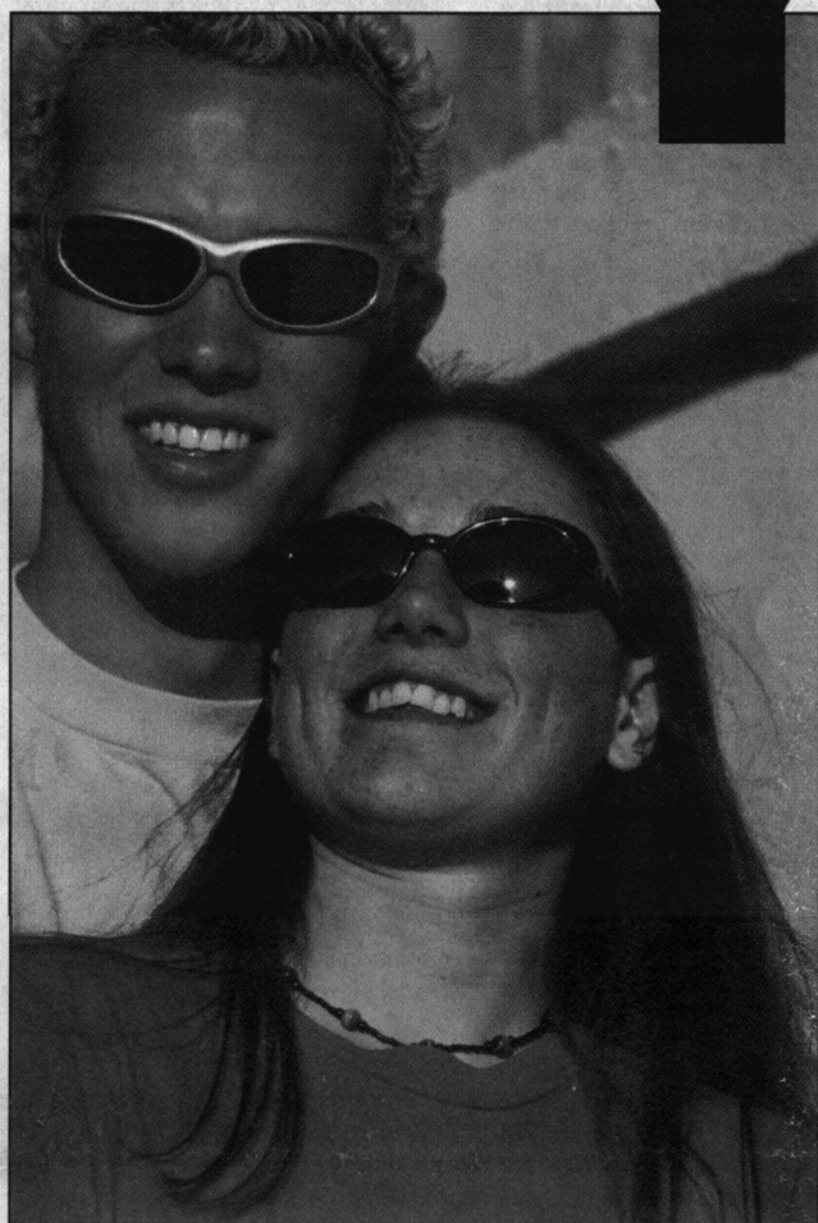
"A lot of times, defense lawyers steer away from using technology because they're afraid that they'll come across as too slick and that jurors will think their client must have a lot of money to spend on the case," she says. "But you've got to give things like video to this generation, otherwise you're going to lose them – and that goes for both defense and plaintiffs' attorneys."

Some lawyers say they try to strike Gen-Ys from juries precisely because they're afraid they'll have to spend too much money to keep their attention.

Rubin, for example, says he doesn't "have faith they're going to stay with us during more complex cases because we can't do everything MTV style. And I don't want to spend a lot of money just to keep them interested if it's not a huge trial."

But engineering professor Marc H. Richman warns lawyers against striking Gen-Y jurors just because they are so tech savvy. In fact, Richman believes Gen-Ys are often the best jurors to have on a complex products liability suit precisely because of their technological prowess.

"Over the past 40-odd years, I've testified as an expert engineer at about 175 trials [the majority products liability], and recently I've found that the younger people are very good at understanding very technical informa-



tion," says Richman, professor emeritus at Brown University and president of Marc H. Richman Inc., a forensic engineering consulting firm in Providence, R.I. "They're aware of, for example, what microswitches are, whereas with older jurors I have to say 'When you open a top-loading washer during the spin cycle and it stops, that's a microswitch [stopping it].'"

Richman adds that in Rhode Island, judges sometimes allow jurors to ask questions during trial – and when that's the case, he says, Gen-Yers tend to ask more questions than other jurors.

"They have the [tech] knowledge that allows them to ask questions," he says. "And their questions – as well as their tech backgrounds – help everyone on the jury out. They could become leaders of the jury [deliberations] if older jurors are willing to listen to them."

• Less suspicious of institutions.

Unlike Gen-Xers, most of whom grew up during a major recession, Gen-Yers are growing up during the most prosperous economy in American history, and therefore have more positive feelings about institutions.

"In April 1998, the *New York Times* polled 13- to 17-year olds and asked if they trusted the government to do the right thing all or most of the time," says social historian Frank Gregorsky. "Fifty-one percent said that they did. In the 1980s, the Xers had much lower measures of trust and confidence, and why wouldn't they? Think about it – their experiences as little kids included an energy crisis, Johnson's failing in Vietnam as well as the Iranian hostage crisis.

So why would you have any faith that the government or big institutions know anything?"

"Gen-Yers aren't skeptical about the government or about big institutions like Gen-Xers are. They are taking and will continue to take their citizenship much more seriously than [Gen-Xers]."

And experts say this means Gen-Yers will also take jury duty more seriously than Gen-Xers – which translates into good news for lawyers who can sway them to their side.

"There are rewards for people, lawyers included, who can connect with them," says Gregorsky, who publishes the newsletter "Love Those Millennials." They want to give back to the society that's been good to them and are looking for someone they can be loyal to and vote for."

• Team players.

Gen-Yers' comfort with institutions has led them to become team players, says Gregorsky. He stresses that this is a "huge difference" from cynical Gen-Xers whose distrust in the "system" led them to become individualist entrepreneurs who do for themselves because they don't believe anyone else will.

"Xers have really excelled in entrepreneurship and they are a very enterprising generation, but that's going down from here on," says Gregorsky. "In a 1997 poll by Drexel University's Center for Employment Futures teenagers between 15 and 17 years old, 91 percent said that they wanted traditional, 9 to 5 employment with reliable

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companies. I was talking recently to a marketing director at Proctor & Gamble, and she said she can't wait for the Yers."

This means, says Gregorsky, that Gen-Yers will typically be more likely to want all jurors to work out their differences in opinions and come to a consensus.

"They aren't likely to be 'hold out' jurors," he says.

Attorney Greg Cusimano agrees.

"I had a rear end collision case a few months ago with two Yers on the jury," says Cusimano, who practices with a six-lawyer firm in Gadsen, Ala. "After, I talked to the foreman and another older juror and asked them specifically about the young jurors. They said [the Gen-Yers] were anxious to have everybody come together with a consensus."

• *The best-educated generation ever.*

"The school system has been much better for the Yers than the Xers," says Gregorsky. "That's in part because teacher salaries went up way more than

inflation in the 1980s, and there was a back-to-basics movement that strove for higher standards for high schoolers, grade schoolers and elementary schoolers alike. There's also been a wiping out of recess in public schools as well as an effort to give high school kids wall-to-wall classes and more after-school programs to prevent them from becoming latch-key kids like the Xers."

While Gen-Yers are better schooled, they have also grown up during a time when personal initiative – and not necessarily advanced degrees – reaps success. Their school smarts, coupled with their real-world knowledge, make them less impressed with pedigrees than older generations, experts say.

Their predecessors made it big with ".com" companies and without Ph.D.s, so Gen-Yers are aware that experience means just as much as a degree.

Plaintiffs' attorney Tom Vesper recently had two Gen-Yers on the jury while representing a man who had been hit by a bus.

"They are much, much less impressed with credentials, so a pedigreed

expert carries very little weight with them," says Vesper, partner in a seven-attorney firm in West Atlantic City, N.J. "So while I had an accident reconstruction expert testify as to why the defendant made a bad turn, I also got a bus driver with 20 years of experience to testify to the same thing to hold the attention of the Gen-Y jurors. If somebody comes across as knowing what they're talking about, they [Gen-Yers] are going to believe them."

Not Just Generation, But Age

Jury consultant Jim Burgund emphasizes that attorneys need to understand the mentality of an 18- to 22-year-old in order to grasp how Gen-Yers think.

"They are at the age where they're just going to college – they have more independence and accepting responsibility for their actions is important to them," says Burgund, president of Jury Selection Sciences, a jury selection company based in Dallas. "And they believe others should accept responsibility for their actions as well."

This means that Gen-Yers are likely

to blame the plaintiff in personal injury-type cases, says Burgund. A lawsuit for which Burgund was an expert witness last summer is a case in point.

"A college sophomore committed suicide and his parents brought a wrongful death suit against a large Massachusetts HMO under which his psychologist and psychiatrist were insured," says Burgund. "They sued the psychologist for not putting him in a hospital and his psychiatrist for not prescribing the right medications. It was mostly a jury of [the deceased's] age group and we got a defense verdict. The Yers were unsympathetic to this kid: They were saying that if he wanted to commit suicide, he would have anyway and they also blamed the parents for not going into family therapy with him."

Burgund notes that of the 12 jurors, five were students between the ages of 18 and 22.

Cusimano, who regularly conducts mock jury workshops for the ATLA, says his research confirms Burgund's point.

"Across the board, the anti-plaintiff bias is much more profound with Gen-Y [mock] jurors," says Cusimano. "They have a strong sense of personal accountability and responsibility."

Some lawyers believe that it's a mistake for either side to have Gen-Yers on a med-mal jury. As attorney David Wenner puts it, "their experience with doctors is generally going to be for 'well-patient' visits such as check-ups."

"They are generally not going to gauge whether your information is right or wrong, which means they're going to rely on fellow jurors to fill in the gaps," says Wenner, a partner in a two-lawyer firm in Phoenix. "They're going to be easily persuadable, and that's dangerous for both sides."

Cusimano urges other attorneys to give Gen-Yers a little more credit.

"Most of us trying these cases are older, and we aren't relating to them as well as we could," he says.

Some suggestions seasoned trial attorneys and jury consultants give to help lawyers understand and relate better to Gen-Yers include:

• *Visiting Web sites frequented by Gen-Yers.*

Try www.bolt.com (a chat room site for college and high school students) or www.ontap.com (a site geared towards college and college-bound students). Another popular site is www.mp3.com (a music-oriented site).

• *Studying advertising campaigns and television programs that target Gen-Yers.*

MTV's "Real World" features real Gen-Ys living and chatting together, while "Road Rules" features similar real Gen-Ys traveling and chatting together. The WB television network's "Dawson's Creek" is a big hit with Gen-Y teenagers, as is "Felicity," which is about college life.

• *Reading books and magazines that are popular with Gen-Y.*

Try *Teen People* and *Cosmopolitan*.

• *Talking to their friends' Gen-Y children in an informal setting about their interests and goals.*

Gregorsky also suggests lawyers read one of the books by social historians Neil Howe and William Strauss. "Generations: The History of America's Future, 1584-2069" was published in 1992. And "Millennials Rising" is due to come out this fall. These books explain how generational change works.

"Their books [offer] a theory and model of generational psychology based on social history," says Gregorsky. **LWUSA**

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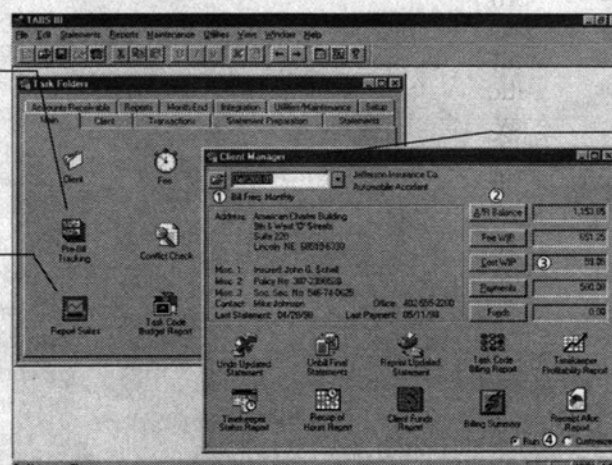
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