



The Jury  
**EXPERT**  
*The Art and Science of Litigation Advocacy*

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## DEMOGRAPHIC ROULETTE

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### WHAT WAS ONCE A BAD IDEA HAS GOTTEN WORSE

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*“Beware of the Lutherans, especially the Scandinavians; they are almost always sure to convict. Either a Lutheran or Scandinavian is unsafe, but if both in one, plead your client guilty and go down the docket. He learns about sinning and punishing from the preacher, and dares not doubt. A person who disobeys must be sent to hell; he has God’s word for that.” (Clarence Darrow, 1936)*

Almost eighty years following Clarence Darrow’s distillation of how religion shapes jury behavior, the belief that demographics could be the holy grail for the selection of jurors persists. It is routine for our clients to comment, in the midst of a mock juror deliberation, “Well, it looks like older women are good for us!” and for the associates to quickly add this to their notes for use in the upcoming voir dire. The lingering hope that demographics could predict a juror’s eventual vote represents a pesky and persistent belief. Too bad it’s hardly ever true.

We are psychologists by training and trial consultants by trade. We pay close attention to popular culture, new social

science research, surveys and polls of randomly selected and representative populations, and we watch the mock jurors in our pretrial research closely. Over the last decade, we have seen a change in juror reports of political affiliation. Those reporting they were either Republican or Democrat began to decrease while those reporting either no political affiliation or being politically Independent began to increase. At the same time, we saw fewer mock jurors reporting they were either “very liberal” or “very conservative”—instead, they simply chose “liberal” or “conservative” or wrote in “it depends”. As time passed and the changes continued, we began to see this change as our “new normal”. We’ve written about it a fair amount at our blog, The Jury Room and were pleased earlier this year when Gallup published a nationwide poll showing an all-time high in those identifying as political independents.

So when the Pew Center began to publish the results of their huge (10,013 randomly selected and nationally representative respondents) survey on the 2014 Political Typology, we took notice. This paper represents the beginning of our efforts to apply the Pew Center work (focused on politics) to litigation advocacy. The Pew Center will continue to publish their results throughout the rest of this year. As it is released, we will continue to analyze their findings for applications to our pretrial research, in our recommendations for voir dire and jury selection, and in the crafting of case narratives.

As you will see on the following pages, there are reasons for the shifts we have noted in juror identification of their political affiliations. The attitudinal shift about politics demands that we reconsider our views of what “political ideology” is and the implications for understanding public attitudes and biases in 2014. We no longer have a continuum with liberals and conservatives at opposite ends and moderates in the middle. It’s become much more complex. And that requires rethinking our previous ideas of the relationship between nominal demographics (such as political affiliation) with attitudes, values and beliefs.

This paper presents aspects of the Pew findings (in brief) and makes the case for looking at political affiliation/ideology differently. We will introduce you to the “new normal” in understanding the eight different groups of voters Pew has identified and then pull out what we know so far from the June and July 2014 Pew publications on how we can use this new (and still emerging) data in litigation advocacy.

### NEITHER REPUBLICAN NOR DEMOCRAT

Mark Zuckerberg, the CEO of Facebook, declared he was neither Republican nor Democrat about a year ago and created a news buzz with this seemingly avant garde position. But (as behooves a social media guru) Zuckerberg is not alone in this position. Historically, most said they were either Republicans or Democrats and a few would say Independent and fewer still said they were unaffiliated. Major party identification has shrunk considerably in the last several years with the majority of our mock jurors now identifying as either non-affiliated or politically independent and the minority still identifying with either the Democratic or Republican parties. We had been watching this shift for almost two years before a Gallup Poll documented it nationally with an article heralding the rise of the American Independent.

Political affiliation used to be predictable. We could expect that the majority of our mock jurors were identified with a major party and a sprinkling would say they were Independent or unaffiliated. Political affiliation is *still* predictable. It’s just that now the majority are telling us they are Independent or not affiliated and the mock jurors share a disapproval of government, politicians and big business that is often palpable in the room. When we do find a group where the majority identify as either Republican or Democrat, we look especially closely for other ways they are not representative of the county or venire. It’s our new normal.

### NEITHER LIBERAL NOR CONSERVATIVE

At the same time self-reports of political affiliations shifted, the mock juror response to the question on liberal versus conservative perspectives also lost any real meaning in most cases. Historically, it was common to have a small percentage of mock jurors describe themselves as either “very conservative” or “very liberal”. We paid close attention to those “fringe-dwelling” mock jurors and they were often identifiably different from those saying they were either “liberal” or “conservative”.

At this point, it is common for us to see no one endorsing the extremes of liberal versus conservative identities and those who self-describe as “very liberal” or “very conservative” tend to be distinguished (on either end of the spectrum) as attitudinally rigid. What that means for a verdict isn’t normally related to the end of the spectrum they self-select, but they are less likely to deliberate with an open mind. We have come to the view that political party affiliation has lost the meaning it used to have, and the question of whether a person is Republican or Democrat (sometimes posed as whether a person is “generally in agreement with [one or the other]”) is no longer specific enough. What is more certain is that the way our mock jurors describe their political world view (in terms of political ideology) has shifted and so we have also shifted the way we interpret our research findings and the strategies we recommend for discovery, voir dire, jury selection, and case narrative.

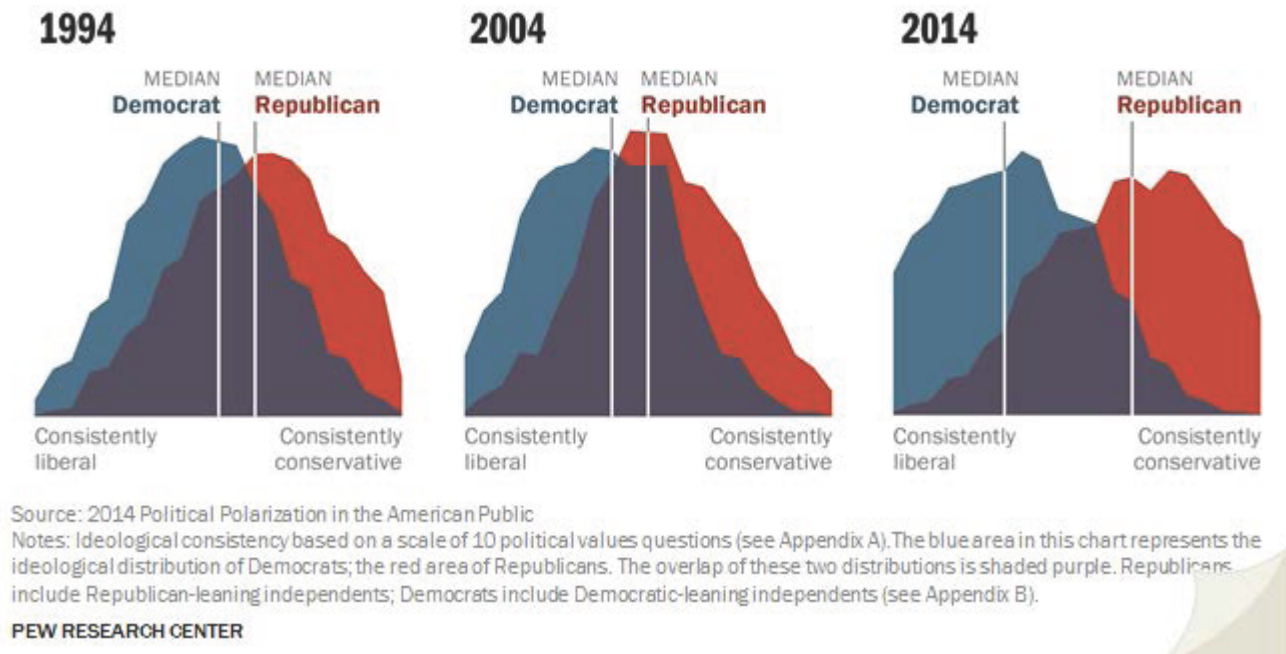
### UNDERSTANDING THE NEW IDEOLOGICAL ‘NORMAL’

It is both difficult and important to keep constantly attuned to this new reality. We all cling to the validity of our impressions about the world and how different venues are best described. “This venire is predominantly blue-collar Democrats, so they will favor the Plaintiff” or “That county voted for Romney, so they will tilt toward the corporate defendant” are common observations. But that thinking that seemed reliable a decade ago simply doesn’t hold water. Just as it is important to continually update our impressions and stereotypes of various generational groups, it is also important to see how the country has changed over the past 20 years with regard to political ideology.

The Pew Center’s large scale survey “reveals a complex picture of partisan polarization and how it manifests itself in political behaviors, policy debates, election dynamics and everyday life”. The Pew Report contains graphics showing the shifts in partisan polarization over the past 20 years. They include an interactive graph option so you can compare various factors and see how things have changed over the patterns present two decades ago. (Note: We encourage you to explore the interactive graph. It is a good way to solidify the changes in your mind so you remain cognizant of *how things are now*, rather than how they were twenty years ago.)

## Democrats and Republicans More Ideologically Divided than in the Past

*Distribution of Democrats and Republicans on a 10-item scale of political values*



**Figure 1**

As Figure 1 above illustrates, Democrats and Republicans have moved further and further apart over the past 2 decades when it comes to their ideological perspectives.

Pew interprets the above figure in this way:

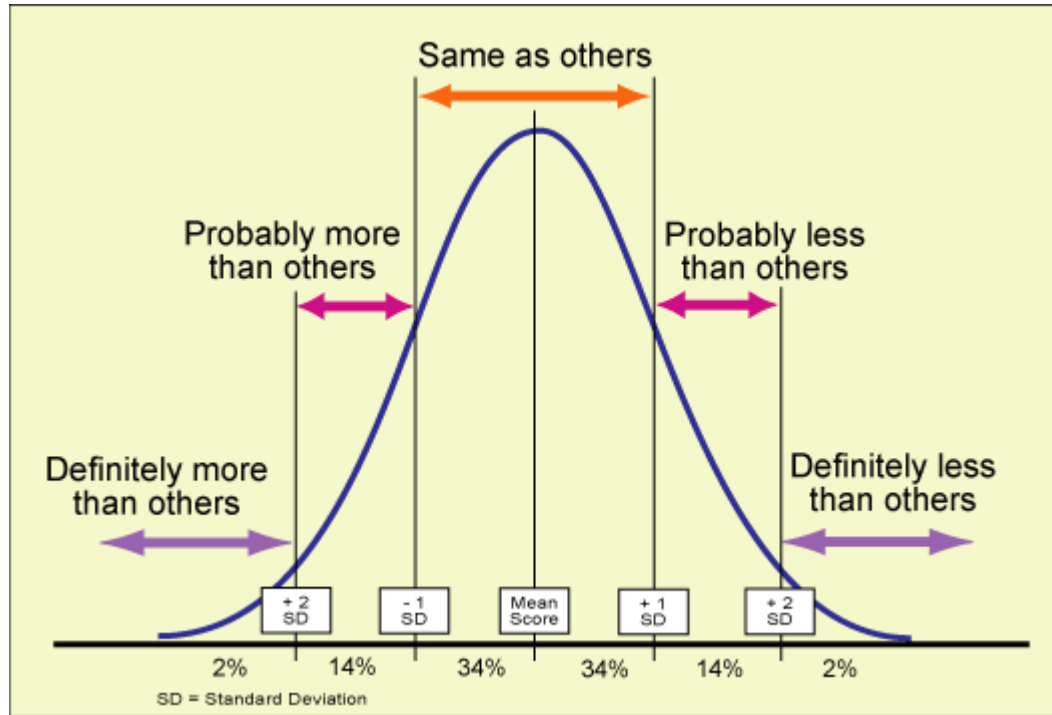
“The overall share of Americans who express consistently conservative or consistently liberal opinions has doubled over the past two decades from 10% to 21%. And ideological thinking is now much more closely aligned with partisanship than in the past. As a result, ideological overlap between the two parties has diminished: Today, 92% of Republicans are to the right of the median Democrat, and 94% of Democrats are to the left of the median Republican.”

On the surface, it looks like the polarization should result in more “very liberal” Democrats and more “very conservative” Republicans. The curve describes a sizable block of self-identified extremists as Democrats or Republicans, but this is a distribution that is skewed by a vastly larger non-affiliated middle that is pushing Democrats and Republicans to the extremes. In other words, anyone left who still refers to themselves as Democrat or Republican accepts the polarization, while a growing segment of the country appears to want nothing to do with it.

As a point of comparison, Pew points to 1994 (see Figure 1) when only 8% of politically engaged Democrats were consistent liberals, now 38% have moved to the “liberal tail” of the new bell curve. In 1994, 23% of politically engaged Republicans were consistently conservative, now 33% have moved to the “conservative tail” of the new bell curve. In other words, if you don’t feel okay with that “liberal” label, you probably won’t want to identify as a Democrat in 2014, even if you have identified as a Democrat in the kinder, gentler past. Similarly, if you believe yourself to be conservative but wince at the label, you are likely going to claim independence and avoid the Republican label. Further, these

extremes of liberal and conservative Americans are not only more likely to vote in elections, they are also more likely to donate financially to political campaigns. Theirs are the voices we hear.

### THE MOST CONSERVATIVE AND THE MOST LIBERAL AMERICANS SHOUT THE LOUDEST



**Figure 1A**

If you think of the normal bell curve (see Figure 1A) of a statistical distribution, what Pew researchers are saying is that the tails of the bell curve have expanded and the statistical “curve” for political ideology is no longer “normal”. That changing statistical curve has strong implications for the political landscape. In essence, Pew says,

the most conservative and the most liberal among us are shouting at each other while the more moderate core (i.e., the diverse majority of the nation) watches in exasperated silence.

We conduct research trying to link attitudes and future voting behavior to responses on questions that are acceptable in court. In some cases, litigants hire firms to do research on voting behavior (for both primaries and general elections) as a predictor of how someone will respond to the facts of a case. What we conclude from the Pew findings is, in part, that while voting Democrat or Republican certainly describes past voter behavior, that same question is no longer useful in describing jurors’ attitudes, values and beliefs.

Whether it is alienation due to partisan wrangling, or whether it is due to a more informed electorate knowing that they agree with some parts of each party’s positions and disagree with both parties on other matters, we can’t be sure. One version of this has always been seen in trial venues that are overwhelmingly Democrat or Republican. Asking this question can be virtually meaningless, because the underlying issues still exist on a continuum, even when everyone says the same thing about their party affiliation. But the question of “are you a Democrat or Republican” seems to have lost meaning when looked at alone.

Pew reports that 27% of Democrats and 36% of Republicans view the other party as a “threat to the nation’s well-being”. These partisans represent the “tails” of the new statistical curve and they are also the loudest, most strident voices in our current political debates (aka polarization). Pew continues by saying the sentiments expressed by those extremes are:



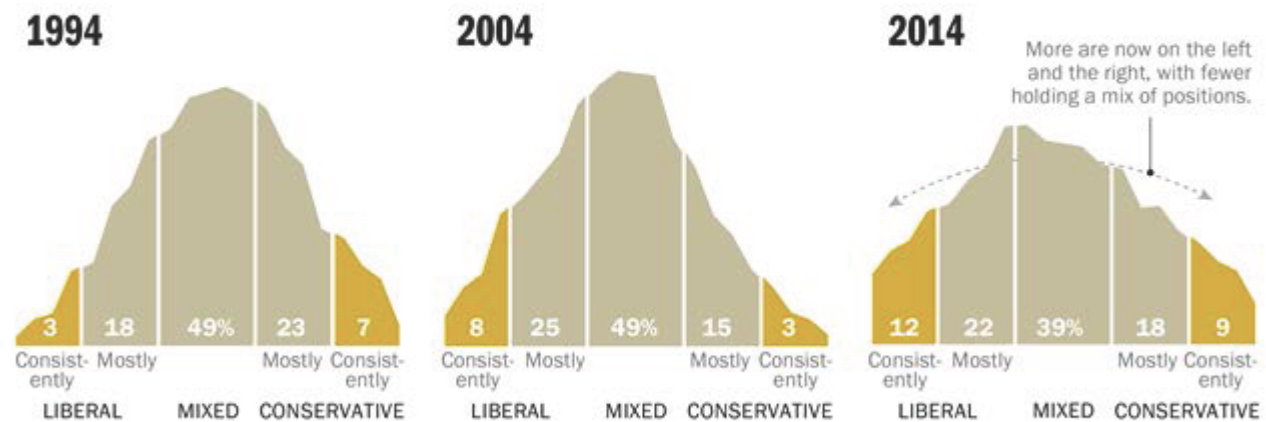
“not shared by all, or even most, Americans. The majority do not have uniformly conservative or liberal views. Most do not see either party as a threat to the nation. And more believe their representatives should meet halfway to resolve contentious disputes rather than hold out for more of what they want. Yet many of those in the center remain on the edges of the political playing field, relatively distant and disengaged, while the most ideologically oriented and politically rancorous Americans make their voices heard through greater participation in every stage of the political process.”

Here is the Pew graphic (Figure 1B) illustrating changes in the bell curve from 1994 (in the midst of the Newt Gingrich “Republican Revolution”) to the present.

## What Polarization Looks Like

### Growing Minority Holds Consistent Ideological Views

On a 10-item scale of political values, % who are...



Source: 2014 Political Polarization in the American Public

Notes: Ideological consistency based on a scale of 10 political values questions. (See Appendix A for details on how the scale is constructed and how scores are grouped.)

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Figure 1B

The curve has flattened over the past two decades and many more people are clustered in the liberal and conservative “tails” of the curve. Because Pew surveyed more than 10,000 American adults, they are able to tell us that, in addition to an oddly shaped distribution curve, the moderate center, (which used to be about half of the country), has shrunk by 10%.

At this point, according to the Pew Research Center, the “center” of our new political “curve” is composed of various groups of people who are not consistently liberal or consistently conservative, but truly have little else in common with each other. Apart from the growing company of hard-liners at the ends of the spectrum, there is more diversity of views in the middle than has been seen in the past.

This leads to the conclusion that we need to toss out all our old assumptions about how political views are distributed across the American population. Self-described Republicans ascribe to views that are farther to the right than in the past, and self-described Democrats tilt farther to the left. Not surprisingly, both “tails” choose friends (and when possible, neighbors) that share their political perspectives.

And here's an odd tidbit: while 47.6% of Americans (in 2006) disapproved of a family member marrying an atheist, now 30% of consistent conservatives (those Republicans in the extreme conservative tail of the new curve) and 23% of consistent liberals (those Democrats in the extreme liberal tail of the new curve) would "be unhappy if an immediate family member married" someone from the other political perspective! In 2014, politics is very personal.

By now you may wonder about the 10-item scale Pew uses to create identify the consistency (i.e., liberal or conservative) of political ideology. Some of you will recognize many of these questions as they have been used by Pew since 1994 in nation-wide surveys. The questions are forced choices between two positions: one conservative and one liberal. We don't particularly like forced choice questions and neither do our mock jurors—often writing in "it depends" on questionnaires that box them in, rather than choosing a side.

### Items in the Ideological Consistency Scale

Question #	Conservative Position	[OR]	Liberal Position
Q25a	Government is almost always wasteful and inefficient		Government often does a better job than people give it credit for
Q25b	Government regulation of business usually does more harm than good		Government regulation of business is necessary to protect the public interest
Q25c	Poor people today have it easy because they can get government benefits without doing anything in return		Poor people have hard lives because government benefits don't go far enough to help them live decently
Q25d	The government today can't afford to do much more to help the needy		The government should do more to help needy Americans, even if it means going deeper into debt
Q25f	Blacks who can't get ahead in this country are mostly responsible for their own condition		Racial discrimination is the main reason why many black people can't get ahead these days
Q25g	Immigrants today are a burden on our country because they take our jobs, housing and health care		Immigrants today strengthen our country because of their hard work and talents
Q25i	The best way to ensure peace is through military strength		Good diplomacy is the best way to ensure peace
Q25n	Most corporations make a fair and reasonable amount of profit		Business corporations make too much profit
Q50r	Stricter environmental laws and regulations cost too many jobs and hurt the economy		Stricter environmental laws and regulations are worth the cost
Q50u	Homosexuality should be discouraged by society		Homosexuality should be accepted by society

Source: 2014 Political Polarization in the American Public.

**Figure 2**

Numerous surveys conducted in the past two years have found very similar patterns to the Pew survey. We track national survey data as well as our own research patterns and have seen very similar findings on liberal versus conservative identity, political affiliation or lack thereof, level of political engagement, sense of political discussions as angry and bad-tempered (aka "polarizing") and more. We are grateful to the Pew Research Center for doing a large enough survey that helps us to make sense of shifting data points.

### PRESENTING PEW'S NEW POLITICAL TYPOLOGY

*Beyond Red and Blue* (the new political typology) from Pew Research, deserves careful consideration. Rather than simply asking if the respondent is Democrat or Republican and/or if they are liberal or conservative, the Pew new political typology looks at attitudes and values beneath those partisan labels to identify "cohesive groups" within those descriptors. Figure 3 shows the groupings (based on shared values and attitudes).



## The 2014 Political Typology: Polarized Wings, a Diverse Middle

	Percent of ...		
	General public	Regist. voters	Politically engaged
	%	%	%
<b>The Partisan Anchors</b>	<b>36</b>	<b>43</b>	<b>57</b>
● <b>Steadfast Conservatives</b> <i>Socially conservative populists</i>	12	15	19
● <b>Business Conservatives</b> <i>Pro-Wall Street, pro-immigrant</i>	10	12	17
● <b>Solid Liberals</b> <i>Liberal across-the-board</i>	15	17	21
<b>Less Partisan, Less Predictable</b>	<b>54</b>	<b>57</b>	<b>43</b>
● <b>Young Outsiders</b> <i>Conservative views on government, not social issues</i>	14	15	11
● <b>Hard-Pressed Skeptics</b> <i>Financially stressed and pessimistic</i>	13	13	9
● <b>Next Generation Left</b> <i>Young, liberal on social issues, less so on social safety net</i>	12	13	11
● <b>Faith and Family Left</b> <i>Racially diverse and religious</i>	15	16	12
● <b>Bystanders</b> <i>Young, diverse, on the sidelines of politics</i>	<u>10</u>	<u>0</u>	<u>0</u>
	100	100	100
N	10,013	7,999	4,767

2014 Political Typology. Figures may not add to 100% because of rounding. The politically engaged are registered to vote, closely follow public affairs and say they always or nearly always vote.

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**Figure 3**

The first group (*The Partisan Anchors*) are the groups occupying the extreme liberal and conservative positions on “the new curve” of political ideology. The Steadfast Conservatives and the Business Conservatives are consistently Republican and the Solid Liberals are consistently Democrat.

A second group (*Less Partisan, Less Predictable*) is composed of the Young Outsiders, the Hard-Pressed Skeptics, the Next Generation Left, and the Faith and Family Left. These groups make up the center but they are *not* consistently moderate or even in agreement with each other on major issues.

Finally, a third group (the *Bystanders*) is disengaged and not even registered to vote. The Bystanders report they are more interested in celebrities than politics.

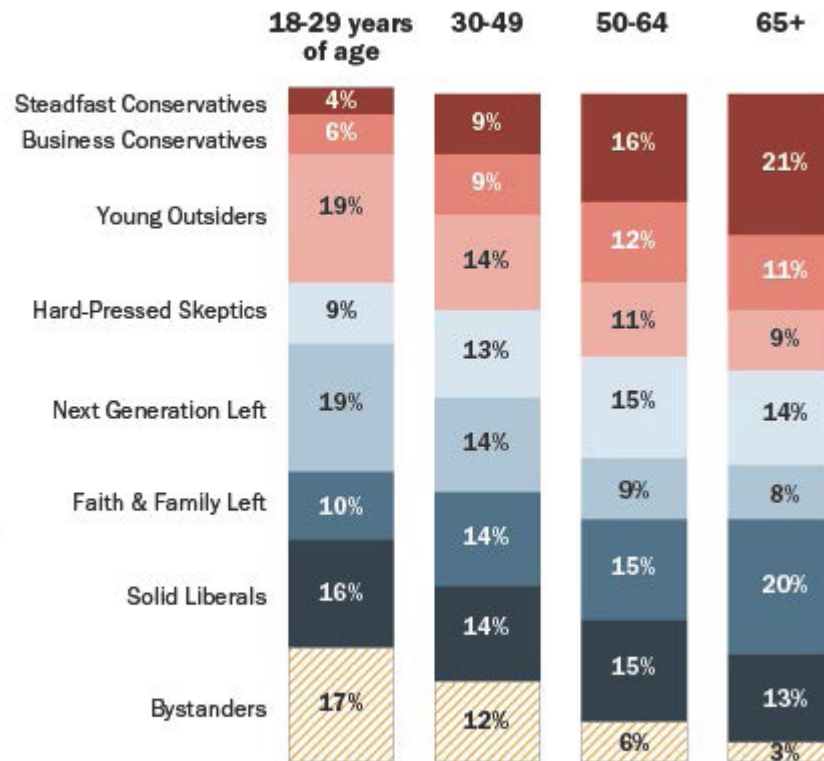
Seeing the Pew typology makes it clear why a juror’s nominal political party affiliation is not a good predictor of much of anything. It is especially important to do this “drill down” on attitudes when doing applied research (such as for insight into litigation) because the issues that affect a case may not show up in a broad question about political affiliation. For instance, a personal injury lawsuit may touch a generally conservative juror in a personal way, causing her to go against her political party with regard to a jury verdict. A strongly liberal Democrat voter might have very unliberal views in a patent case due to opposition to the very notion of patents.

There is simply too much diversity in values, attitudes and beliefs underlying the endorsement of those partisan labels to be able to use Democrat or Republican party affiliation as a descriptor. Pew is slowly publishing the results of their massive survey throughout the year 2014 but we think it’s important enough to alert you to early on so you can monitor the new information as it comes out. Pew offers you the opportunity to take their political typology quiz to see which group you would belong to based on your responses.

THE ROLE OF AGE IN POLITICAL PERSPECTIVE

**Political Typologies Shift with Age**

*Percent of Americans in each age bracket who are...*



Source: 2014 Political Typology  
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**Figure 4**

Age also plays a role in political attitudes but it is not just the simplistic “young equals liberal and old equals conservative” equation long heard. Pew gives us a much more nuanced picture of the relationship between age and politics by offering a view of age and the political typology groups.

“Looking at the youngest American adults, those ages 18 to 29, nearly one-in-five are what we call Young Outsiders — GOP leaners who favor limited government but are socially liberal. Almost exactly the same percentage are what we’ve termed the Next Generation Left, who tilt more to the Democrats but are wary of social-welfare programs. And many (17%) are Bystanders — not registered to vote, don’t follow politics and generally the least politically engaged. That’s the biggest share among all age brackets, though perhaps not entirely surprising.”

Among the implications of this is that if the litigation involves awarding large sums of money for non-economic injuries (pain and suffering, mental anguish, et cetera), otherwise liberal-leaning young jurors might show up on the conservative side of damages discussions. At the same time, if it is a case involving prosecution for marijuana possession, an otherwise conservative young juror might be reluctant to punish.

If you are interested in looking more closely at how the eight typology groups differ on issues related to politics and elections, views of the US and our economy, government and economic policy, foreign policy and security, domestic policy, religion and society, or even demographic information, Pew has a very nice interactive tool on their website.

**WHAT DOES ALL THIS MEAN FOR TRIAL LAW?**

This is a work in progress and we will continue to refine and add to our thoughts as Pew publishes more information over the course of 2014, but we can put out some preliminary data we find useful for all phases of trial. There are some

strange bedfellows uncovered in this survey and it could be important to identify who agrees with whom as we go about our day-to-day tasks with this new political typology (rather than our old ideas about Republicans and Democrats and liberals and conservatives) in mind.

Pew's focus is understandably on what this typology means for upcoming elections (as many pollsters failed miserably in predicting 2012 election outcomes). Our focus, not surprisingly, is on how their data might inform us for litigation advocacy. The table on the following pages summarizes attitudes, values and beliefs of each typology group as well as the often unpredictable groups with which they share values and beliefs in common.

**Table 1**

<b>Typology Group</b>	<b>Attitudes, Values and Beliefs</b>	<b>Strange bedfellows</b> [useful in matching case themes]	<b>Additional data points</b>
<p><b>Steadfast Conservatives</b> <i>[Socially Conservative Populists].</i></p> <p>Largely white (87%) and male (59%).</p> <p>67% are aged 50+.</p> <p>Tend to be more downscale and pessimistic than Business Conservatives.</p> <p>53% agree with Tea Party.</p> <p>28% unhappy if family member married someone of a different race.</p>	<p>Staunch critics of government and social safety net. Most likely to say they are angry with the US government.</p> <p>Socially conservative. 50% support path to citizenship for immigrants and 74% believe homosexuality should be discouraged.</p> <p>Skeptical of big business and Wall Street.</p> <p>Wary about US international engagement and think free trade agreements are a bad thing for the US.</p>	<p>Agree with Business Conservatives and Solid Liberals that government should not collect telecommunication data as part of anti-terrorism efforts.</p> <p>Agree with Hard-Pressed Skeptics that immigrants are a burden on US society and 42% of Steadfast Conservatives support deporting all illegal immigrants.</p> <p>Agree with Business Conservatives and Faith and Family Left that abortion should be illegal in all or most cases.</p> <p>Agree with Faith and Family Left and Business Conservatives that marijuana should not be legalized.</p> <p>Agree with Business Conservatives, Next Generation Left and Young Outsiders that US has made sufficient changes to give blacks equal rights with whites.</p>	<p>12% of population.</p> <p>Strongly ideological and politically engaged (they vote and give money to candidates).</p> <p>Reliable Republicans: Government should be smaller and play less of a role in economy.</p>

Typology Group	Attitudes, Values and Beliefs	Strange bedfellows [useful in matching case themes]	Additional data points
<p><b>Business Conservatives</b> <i>[Pro-Wall Street, pro-immigrants].</i></p> <p>Largely white (85%) and male (62%). 53% aged 50+.</p> <p>55% agree with Tea Party. Most likely to self-describe as Libertarian (although only 27% do so).</p> <p>Most affluent group: 45% have income of \$75K or more, with 28% at \$100K+.</p>	<p>Share critical perspective of government with Steadfast Conservatives but support Wall Street, business and immigration reforms (72% favor path to citizenship).</p> <p>Moderate on social issues. 31% believe homosexuality should be discouraged and 58% believe it should be accepted.</p> <p>Positive about US taking active role in world affairs and free trade.</p>	<p>Agree with Solid Liberals and Steadfast Conservatives that government should not collect telecommunication data as part of anti-terrorism efforts.</p> <p>Agree with Faith and Family Left and Steadfast Conservatives that abortion should be illegal in all or most cases.</p> <p>Agree with Faith and Family Left and Steadfast Conservatives that marijuana should not be legalized.</p> <p>Agree with Next Generation Left, Steadfast Conservatives and Young Outsiders that US has made sufficient changes to give blacks equal rights with whites.</p>	<p>10% of population.</p> <p>Strongly ideological and politically engaged (they vote and give money to candidates).</p> <p>Reliable Republicans: Government should be smaller and play less of a role in economy.</p> <p>More wealthy and optimistic than Steadfast Conservatives</p> <p>Prefer to live in suburbs.</p>



Typology Group	Attitudes, Values and Beliefs	Strange bedfellows [useful in matching case themes]	Additional data points
<p><b>Solid Liberals</b> <i>[Liberal across the board].</i></p> <p>41% under age 50, most educated group (52% college grads and 21% graduate degrees), and 69% white.</p> <p>83% say government should do more to help needy even if it means taking on more debt.</p>	<p>Liberal attitudes toward business, government, economics, race (80% think racial discrimination is main reason blacks cannot get ahead these days), homosexuality, abortion.</p> <p>Less than 10% endorse: "It is necessary to believe in God in order to be moral and have good values."</p> <p>Optimistic about US future and say America's future success is linked to its ability to change, rather than its reliance on long-standing principles.</p>	<p>Agree with Business Conservatives and Steadfast Conservatives that government should not collect telecommunication data as part of anti-terrorism efforts.</p> <p>Agree with Faith and Family Left, Next Generation Left and Young Outsiders that stricter environmental laws are worth the cost.</p>	<p>15% of population.</p> <p>Strongly ideological and politically engaged (they vote and give money to candidates).</p> <p>Reliable Democrats.</p> <p>Prefer urban living and activities.</p>



Typology Group	Attitudes, Values and Beliefs	Strange bedfellows [useful in matching case themes]	Additional data points
<p><b>Young Outsiders</b> <i>[Conservative views on government but not on social issues].</i></p> <p>73% white, 48% male and 52% female.</p> <p>Younger group: 30% are under age 30, 48% under age 40 and most are under 50 years of age.</p>	<p>Support environmental regulation and have liberal views on social issues.</p> <p>BUT also support limited government (76% say government cannot afford to spend more to help needy).</p> <p>81% think "poor people today have it easy because they can get government benefits without doing anything in return."</p>	<p>Agree with Faith and Family Left, Next Generation Left and Solid Liberals that stricter environmental laws are worth the cost.</p> <p>Agree with Business Conservatives, Steadfast Conservatives and Next Generation Left that US has made sufficient changes to give blacks equal rights with whites.</p>	<p>14% of population.</p> <p>Lean Republican but less politically engaged than first three groups.</p> <p>Tendency to dislike both main political parties and labeled as 'wild cards' in the political process.</p>
<p><b>Hard-Pressed Skeptics</b> <i>[Financially stressed and pessimistic].</i></p> <p>51% are age 50 and older.</p> <p>61% white, 20% black, and 9% Hispanic.</p> <p>9% college grads and only 32% work full-time.</p> <p>56% family income less than \$30K.</p>	<p>Battered by economy and resent government and business.</p> <p>Back government support for poor and needy (71% endorse: "The poor have hard lives because government benefits don't go far enough to help them live decently").</p>	<p>Agree with Steadfast Conservatives that immigrants are a burden on US society. 31% of Hard-Pressed Skeptics support deporting all illegal immigrants.</p>	<p>13% of population.</p> <p>Less politically engaged than first three groups but lean Democrat although Pew sees them as 'wild cards' in the political process. (Hard-Pressed Skeptics report less interest in politics than any other typology group.)</p>

Typology Group	Attitudes, Values and Beliefs	Strange bedfellows [useful in matching case themes]	Additional data points
<p><b>Next Generation Left</b> <i>[Youngest of typology groups, liberal on social issues, less so on social safety net].</i></p> <p>68% white and 15% Hispanic.</p> <p>52% under age 40, 74% have some college coursework completed and 38% are college grads.</p>	<p>Young, relatively affluent, very liberal on social issues like same sex marriage and abortion.</p> <p>Reservations on cost of social programs (39% say government should do more to help needy).</p> <p>Support affirmative action but strongly reject idea that racial discrimination keeps blacks from getting ahead.</p> <p>Less than 10% endorse: "It is necessary to believe in God in order to be moral and have good values."</p> <p>More supportive of Wall Street than other Democrat groups (56% say it helps more than it hurts the economy).</p>	<p>Agree with Faith and Family Left, Solid Liberals and Young Outsiders that stricter environmental laws are worth the cost.</p> <p>Agree with Business Conservatives, Steadfast Conservatives and Young Outsiders that US has made sufficient changes to give blacks equal rights with whites.</p>	<p>12% of population.</p> <p>Lean Democrat. Less politically engaged than first three groups. 53% describe themselves as "moderates" (highest in any group).</p> <p>These are the Millennials and younger Gen X: they embrace diversity, are positive about role of government, and upbeat re: personal futures and future of the country.</p>

Typology Group	Attitudes, Values and Beliefs	Strange bedfellows [useful in matching case themes]	Additional data points
<p><b>Faith and Family Left</b> <i>[Racially diverse and religious].</i></p> <p>41% white and non-Hispanic, 30% black, 19% Hispanic, and 8% other or mixed race. 18% are foreign born.</p> <p>31% less than age 40.</p> <p>One of the least educated groups: 54% have only a HS education and only 18% are college grads.</p> <p>45% earn less than \$30K annually.</p>	<p>Confident government and federal programs will address nation's problems.</p> <p>Very religious, think society is changing too fast including acceptance of homosexuality and nontraditional family structures (only 37% favor same sex marriage).</p> <p>85% say religion is very important. 91% endorse: "It is necessary to believe in God in order to be moral and have good values."</p> <p>51% want the government to do more to protect morality (highest percentage of any typology group).</p> <p>73% say: Compassion and helping others are core values.</p>	<p>Agree with Solid Liberals, Next Generation Left and Young Outsiders that stricter environmental laws are worth the cost.</p> <p>Agree with Business Conservatives and Steadfast Conservatives that abortion should be illegal in all or most cases.</p>	<p>15% of population.</p> <p>Lean Democrat. Less politically engaged than first three groups.</p> <p>Less affluent, less educated and older than other Democratic-oriented groups.</p> <p>Support affirmative action programs but just 13% believe racial discrimination keeps blacks from getting ahead.</p>

Typology Group	Attitudes, Values and Beliefs	Strange bedfellows [useful in matching case themes]	Additional data points
<p><b>Bystanders</b> <i>[Young, diverse, on sidelines of politics].</i></p> <p>38% less than age 30.</p> <p>48% white, 32% Hispanic, 10% black.</p>	<p>Not registered to vote and pay little attention to politics.</p> <p>More likely to say they are interested in celebrities and entertainment than the public overall (64% vs. 44%).</p> <p>66% think of themselves as an "outdoor person."</p>		<p>10% of population. Politically disengaged.</p> <p>Little interest in business and finance and, not surprisingly, government and politics.</p>

### CONCLUSION

As stated earlier, this collection of demographic, attitudinal and lifestyle details by political typology is a work in progress. This new information (an amplification of patterns we have seen growing for years) is very useful. Will it signal the end of using demographics to guide voir dire and jury selection? Almost certainly not. Partly this is the fault of the courts, which in most venues are becoming increasingly restrictive of time and scope of questions to jurors. If litigants cannot ask substantive questions, they are left to rely on the broad impressions, which are often wrong and are generally based on stereotypes rather than knowledge of individual biases.

The other reason reliance on misguided demographics is not likely to go away in spite of the data making its ineffectiveness clear, is that pulling together a more insightful approach to jury selection is difficult. It is an exercise that requires a different skill set than that required in any other phase of successful trial practice. It can be done, and in many trials demographics are largely a side detail, rather than the main source of data. But like the research that describes the patterns, it is complicated, and requires careful planning.

We believe it is important to read and understand new information (whether from polls, surveys or social science research) as it is released and so are always looking for reliable data (you will see a lot of what we read written about on our ABA-award-winning blog). As Pew reports additional data from this survey, we will refine our summary table and accompanying pretrial research questions to help us continue to identify what makes a difference *now*, rather than what made a difference years, or even decades, ago.

The new Pew Political Typology report contains valuable information that is well worth your time to read and apply to your day-to-day work in litigation advocacy. Read it, understand it, and make sure you have your hand on the pulse of the venire as it is today rather than assuming things are as they have always been. After all, that would mean women and minorities are good for the Plaintiff and White men (especially Clarence Darrow's Scandinavian Lutherans) are good for the Defense. It could be true, or not, but it clearly isn't something to bank on.

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### **Paul Begala comments on "Demographic Roulette"**

*Paul Begala is a Newsweek/Daily Beast columnist, a CNN contributor, an affiliated professor of public policy at Georgetown, and a senior adviser to Priorities USA Action, a progressive PAC.*

To be sure, serving on a jury and voting in an election are very different things. As a political strategist, I'd love to be able to select the voters for my elections, then lock them in a box and control the information they receive. At the same time, there are similarities – one of them being the persistence of myths in a time of data.

As a Democrat, I believe in science. Unlike many of my Republican friends, I believe in evolution and gravity and photosynthesis – even electromagnetism. I also believe in the new data analytics that are revolutionizing politics.

Drs. Doug Keene and Rita Handrich have done a great service in analyzing the new Pew voter research through the prism of jury selection. It is undeniably true that the parties are further apart than they have been in decades. It is not true that this is caused by equal and opposite movement by each party. President Obama is excoriated as a socialist for pushing policies that just a few years ago were mainstream Republican ideas. His Affordable Care Act was conceived by the right-wing Heritage Foundation as an alternative to HillaryCare. It was midwived by Newt Gingrich and raised by Mitt Romney. Similarly, the Obama immigration plan was the George W. Bush immigration plan just a few years ago, and the Obama cap & trade legislation was developed and supported by numerous Republicans, including John McCain.

The GOP, on the other hand, has lurched from mainstream conservatism to John Birch-like fanaticism. Does any believe Dwight Eisenhower, who battled the Birchers in his day, would be comfortable in the Republican Party today? Or that Ronald Reagan, who as governor signed the biggest tax increase in California history, and as President signed the biggest tax increase in American history (as well as amnesty for undocumented residents) could survive the wrath of the Tea Partiers today?

And yet...

And yet, if you look carefully you will find skepticism of corporate power among Tea Party populists. You will find discomfort with Obama's drone policy, and his surveillance policy, among loyal liberals. You'll find the proverbial Tea Party retiree who wants to "keep government out of my Medicare." And you'll find right-wing conservatives who want to reduce sentences for non-violent drug offenses.

The problem is, too many of us have retreated to our own highly partisan corners. Our neighborhoods are increasingly segregated by ideology, our churches too. And Lord knows our news media has so many specialized and often biased



outlets that people can live in their own hermetically sealed bubble. As a former government official and current political commentator, I would like to see legislative maps drawn with no regard to partisan impact. I'd like to see people reach out of their media comfort zone. I'd like to see compromise and consensus rewarded by voters, instead of treating those who reach across the aisle as pariahs.

Of course, I'd also like to see the Houston Astros win the World Series, and that ain't happening anytime soon.

So perhaps the best I can hope for is a healthy dose of skepticism – of my own views. It seems to me that for anyone who believes he/she is in sole possession of *The Truth*, it's time for a check-up from the neck up. But then again, I could be wrong about that.

Drs. Keene and Handrich's article reminds us all that people are complex creatures. Any political strategist – or lawyer – who thinks she/he can color us all bright blue or blood red needs to buy a new box of crayons.