

Damage Awards: Jurors' Sense of Entitlement as a Predictor

BY GARY GIEWAT

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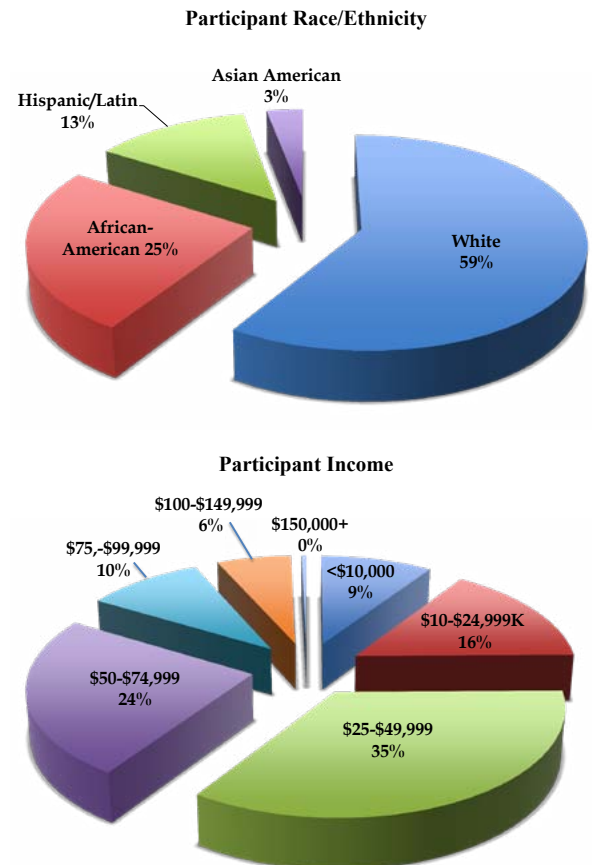
As Campbell and his colleagues¹ discussed, psychological entitlement is a personality trait that is instrumental to a wide variety of issues in society, ranging from the mundane, such as access to good seats at a sporting event, to more important issues such as the distribution of resources including tax breaks and social welfare. People's sense of entitlement has long been thought by research staff at American Jury Centers to be a component of how jurors make decisions, namely the propensity to provide larger damage awards. The purpose of this investigation is to examine the possible relationship between degree of entitlement and the tendency of prospective jurors to provide damage awards. That is, do those who maintain a higher sense of entitlement provide larger or smaller damage awards? Are there demographic distinctions with respect to entitlement?

METHOD

Beginning in mid-2009, American Jury Centers inserted a subset of items from the Psychological Entitlement Scale² in its pre-stimulus questionnaires used in mock trial research with jury eligible participants. Three questions, ranked on a six-point Likert scale ranging from strongly agree to strongly disagree, were embedded into our standard set of questionnaire items that examine research participants' opinions regarding corporations, lawsuits, damage awards, etc. The entitlement items included:

I honestly feel I'm more deserving than others.
I deserve more things in my life.
People like me deserve an extra break now and then.

Several different projects across the United States constituted our sample of 228 participants. Fifty-seven percent of participants were female and 43% were male with an average age of 46, ranging from 20 to 77 years of age.



RESULTS

A K-means cluster analysis was conducted on the entitlement scale items in order to classify participants into distinct groups. Cluster analysis is a statistical technique that creates a desired number of homogeneous groups, in this case three, that are as distinct as possible³. Three groups were created and defined best as having high, moderate and low entitlement scores across the three entitlement scale items. Overall, 42% of participants were classified as low in entitlement, 42% were moderate in entitlement, and 16% were high in entitlement. Five participants were excluded as a result of missing data. The table below provides a breakdown of entitlement grouping by varied demographic factors.

Demographics by Entitlement Category			
	Low Entitlement (overall = 42%)	Moderate Entitlement (overall = 42%)	High Entitlement (overall = 16%)
<i>Gender</i>			
Male	42%	37%	21%
Female	42%	45%	13%
<i>Age</i>			
18-29	42%	36%	23%
30-39	40%	34%	26%
40-49	43%	43%	14%
50-59	36%	51%	8%
60+	53%	40%	8%
<i>Race/Ethnicity</i>			
African-American	17%	43%	41%
Hispanic/Latin	28%	52%	21%
White	54%	41%	5%
<i>Income</i>			
<\$25,000	26%	55%	19%
\$25,000-\$74,999	43%	41%	17%
\$75,000 +	65%	30%	5%

Entitlement & Damage Awards

In order to make comparisons between entitlement grouping and damage awards, the data from participants' individual damage awards from the varied projects was aggregated into a single, total value. For example, we summed the economic and non-economic damages to a single value. Raw damage amounts ranged from \$0 to \$50,000,000. Because the projects varied in type and range of damage awards the aggregate damage amounts were standardized in order to compare "apples and oranges." That is, the dollar awards were all transformed into a standardized score in order to

make comparisons from different normal distributions. As a result, actual dollar amounts are not used in these analyses. Instead, the values used are the corresponding z-scores that reflect the degree to which an award deviates from the average aggregate score.

Examination of these data revealed a clear relationship between entitlement grouping and damage awards. Participants classified as low in entitlement provided the lowest average damage awards, followed by those in the moderate group. **Participants who were classified as high in entitlement provided the largest average damage awards.** In addition, participants in this group were also highly variable in their awards as revealed by the high degree of variation in their awards and the fact that the median average award was not necessarily extreme. Among participants classified as high in entitlement were those who provided the largest damage awards in the varied American Jury Centers mock trials.

Entitlement Grouping & Damage Awards			
Entitlement Grouping	Damage Awards Average Z-Value	N	Standard Deviation
High	.30009	36	1.32097
Moderate	.01008	93	.96326
Low	-.13186	94	.86033

So What?

These data suggest a relationship between psychological entitlement and jurors’ damage awards, specifically that those who have a higher sense of entitlement also tend to provide larger damage awards. What does that mean? At trial, having a better understanding for jurors’ attitudes and varied personality factors (e.g., authoritarianism, attribution style, and psychological entitlement) is useful in identifying prospective jurors less favorable to your client. Knowing the implications of psychological entitlement and the degree to which it is associated with a varied demographic may aid in developing better profiles for jury selection and potentially better managing exposure at trial. If you are a plaintiff, high psychological entitlement favors your client and can help to develop profiles to identify jurors most likely to award high damages. Conversely, for plaintiff counsel identifying prospective jurors with a lower degree of psychological entitlement for potential strike might enhance damage awards.

References

¹ Campbell, W.K., Bonacci, A.M., Shelton, J., Exline, J.J., & Bushman, B.J. (2004). Psychological Entitlement: Interpersonal Consequences and Validation of a Self-Report Measure, *Journal of Personality Assessment*, 83(1), 29-45.

² Id at 2

³ SPSS Inc. (2005). SPSS Base 14.0 for Windows Users Guide. SPSS, Inc. Chicago, IL.

A Note From the Editor

Race, gender, tears, rage, damages, communication, economy and emotion!

You cannot run the gamut of topics anymore than that! And that's what we have for you in the May 2011 issue of The Jury Expert! As trial consultants, we see the good, the bad, and the ugly. We are privy to the secrets, the dysfunction, the illicit wishes and wants of the parties and the anger and frustration of both litigants and lawyers. And that results in work that is sometimes exhausting but always invigorating and interesting.

You may have expected a piece in this issue about the way our heroes fall and how jurors [and the general public] respond. We think that topic is way too predictable for The Jury Expert. So instead, what you will see is emerging work on how the race and gender of the trial lawyer is related to the ultimate verdict for criminal defendants. (It isn't pretty.) And then you'll find lots more including some original research on damages and entitlement, product liability, juror emotions, and finally, narrative persuasion.

We are, naturally, attuned to the economy and your desires to save some money. So we have two pieces on how to save money on pre-trial research and on witness preparation. Why? Why, because we care about you and want to help.

You could help us too! Our authors work hard on their articles for The Jury Expert! You like reading them. So read. Enjoy. Gather nuggets. AND then become real—by writing a comment on our website or on your own blog so our authors know you are out there appreciating their hard work.

Next time you see us it will be in the dog days of summer. So enjoy this breath of spring and know that, before too long at all, "we'll be back".

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A M E R I C A N S O C I E T Y O F T R I A L C O N S U L T A N T S



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