

## What does a Juror's Generation mean to Trial Consultants?

By Pat McEvoy and Eliza Shepherd

For years we have been reading generalizations about the Generations. Boomers are supposed to be the most generous. The Post-War Generation is more conservative. The claim is that the Generation into which we are born shapes our values. Economic, political and social events influence a person's point of view. While many of the generalizations are based on anecdotal information, not empirical research (Giancola, 2006), we decided to bypass that debate. If our Generation shapes our values, we would expect these characteristics to influence reactions to lawsuits. So, we asked a different question: Does knowing a prospective jurors' Generation inform jury selection strategy?

A Generation is defined by a person's formative years, thought to be roughly the teens. To evaluate generational influences on legal decision-making, Zagnoli McEvoy Foley conducted an analysis of mock juror verdicts from recent personal injury and medical malpractice cases across the country. Our analysis included 43 cases, with a total of 1,321 mock jurors from many venues. Since Generations have been given many names and the date ranges vary, here is the way we defined generations, and the number of jurors evaluated in each generation:

- "World War II"      born 1922–1927 (not used in analysis due to small numbers in sample)
- "Post-War"        born 1928–1945 (n=239)
- "Boomers I"        born 1946–1954 (n=254)
- "Boomers II"      born 1955–1965 (n=315)
- "Generation X"    born 1966–1976 (n=244)
- "Generation Y"    born 1977 and after (n=269)



## Liability

Generation was not correlated with favoring either the plaintiff or the defendant.

## Damages

Generation was not correlated with the total amount of damages awarded. This is a change from what past research findings have shown. Several years ago we found that Gen Y awarded higher damages than Gen X. This was at a time when we had fewer Gen Ys in our database and there were fewer Gen Ys on juries. So, either Gen Ys have changed or the power of a larger database has altered this finding.



## Political Affiliation

We compared those who identified themselves as Democrat or Republican (n=949).

- Gen Y has the least Republicans (21%) and the most Democrats (79%).
- Boomer II and Gen X are the most similar politically; about 70% Democrat and 30% Republican.

This is of interest given the November elections, but we did not find that political party correlates with verdict or damages. Other ZMF research has also determined that political party affiliation does not correlate with liability verdict or damages (Tuerkheimer, in press).

While political party affiliation is not predictive, whether you describe yourself as liberal (higher damages), moderate or conservative (lower damages) is. However, while Gen Yers are more likely to call themselves liberal, they do not award significantly higher damages.

However, Generation is related to the type of damages jurors say they will award.

## Damages for Emotional Distress

- Gen X is the most likely to favor awarding damages for emotional distress (86%).
- Boomer I (80%), Boomer II (78%), and Gen Y (77%) are equally likely to favor awarding damages for emotional distress.
- Post-War is the least likely (64%) to favor awarding damages for emotional distress.

## Damages for Loss of Enjoyment of Life

- Gen Y is significantly less likely to award damages for loss of enjoyment of life (56%). At least 70% of all other generations awarded damages for loss of enjoyment of life.

One alternate explanation of this finding is that stage of life is involved here; younger people are more likely to take quality of life for granted. A longitudinal study would answer whether this finding is due to age or Generation.

## Conclusion

A single research project can never answer a question definitively. However, from this analysis we conclude that knowing a juror's Generation is useful in cases that involve Emotional Distress or Loss of Enjoyment of Life.

Generations are in flux. For example, the oldest Gen Y juror is 31 years old and the youngest is not old enough to sit on a jury. The oldest Boomers are nearing retirement age. Additional differences in liability and damage decisions may be revealed in the future.

## References

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*Rita R. Handrich, PhD*



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