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## Musings from the Deliberation Room: The Impact of Humor on Juror Decision Making

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**D**ID YOU HEAR THE ONE about the priest, the rabbi and the trial consultant? Just kidding. I believe it was Winston Churchill who said: “Humor is a very serious thing.” The very nature of humor is that it is misunderstood more often than not. This makes humor a proverbial two edged sword – it can slice through the toughest of situations to your advantage, or cut sharply against you. This goes for the courtroom experience as well.

Research shows that successful humor boosts both likeability and group effectiveness. According to Michelle Gielan, an expert in positive psychology and cofounder of the Institute for Applied Positive Research, when something makes us smile or laugh, the feel-good chemical dopamine is dropped into our systems, which turns on all the learning centers in the brain and heightens creativity, productivity and engagement. Similarly, Anthony Pascosolido, a management and organizational behavior professor at the University of New Hampshire, believes that humor can serve to facilitate trust among strangers, ease tension and establish a sense of group cohesion. In his research, he found that effective humor provides a sense of “psychological safety” that helps manage emotions and makes group members more willing to accept challenging goals (Pascosolido, 2002).

Using humor also increases attentiveness and persuasiveness. For a leader (or a foreperson), it helps people relate by breaking down power structures and equalizing individuals. That said, it is easy to see how these concepts might translate to the courtroom. This article is a look at how juror decision making is affected by humor and how understanding and recognizing various humor styles can help both trial consultants and attorneys get a leg up on opposing counsel. Before turning our attention to those issues, let us first look at how humor has been conceptualized.

### What Is Humor?

Although there does not exist one way to define or conceptualize humor, the following definitions have been used extensively in the literature: Booth-Butterfield & Booth-Butterfield’s definition of humorous communication states that humor is: “intentional verbal and nonverbal messages which elicit laughter, chuckling, and other forms of spontaneous behavior taken to meant pleasure, delight, and/or surprise in the targeted receiver” (2007, p. 206). Robinson (1991) notes a difference between humor and laughter asserting that while humor is a cognitive communication process, laughter is simply a manifestation of that process while McGhee (1996) defines humor as a type of intellectual interplay. Regardless of how one conceptualizes

humor, there are four types of humor that are pervasive in the literature:

Affiliative Humor	Used to amuse others and facilitate relationships; often used to cheer people up
Self-Enhancing Humor	Used to cope with stress and maintain a humorous outlook over the situation
Aggressive Humor	Use of sarcastic, manipulative, put-down, offensive or disparaging humor
Self-Defeating/Deprecating Humor	Amusing others at one's own expense; laughing along with other's when being ridiculed

The first two styles are considered positive uses of humor and are negatively correlated with anxiety and depression and positively correlated with self-esteem, extraversion, openness and agreeableness. The last two are negatively correlated with agreeableness and conscientiousness and positively correlated with neuroticism, hostility and aggression. Essentially, affiliative and self-enhancing humor are productive uses of humor while aggressive and self defeating/deprecating humor are thought to be unproductive. But aside from these correlations, of more importance is the question, what do these styles tell you about the personality of the person with this distinct style pattern?

In 2003, Rod Martin and Patricia Doris developed The Humor Styles Questionnaire (HSQ) to measure individual differences in styles of humor. Humor has been shown to be a personality characteristic that remains relatively stable over time and is sometimes viewed as a one-dimensional trait (Martin, Puhlik-Doris, Larsen, Gray & Weir, 2003). However, individuals seem to differ in the ways in which they use humor in their everyday lives, and different styles of humor seem to have different outcomes. The Humor Styles Questionnaire was developed to identify the ways in which individuals differ in humor styles and how these differences influence health, well-being, relationships, likeability, and other outcomes (Kuiper & McHale, 2009).

Results of the questionnaire reveal that participants with high average scores on all 4 styles are outgoing, impulsive and open to new experiences. Those below average on all of the styles are restrained, not outgoing, but are well-focused and organized. Those above average on the positive humor styles and below average on the negative humor styles are well balanced, low in anxiety, and positive towards themselves and others. They mostly use more lighthearted humor content, such as satire, irony, and philosophical humor.

Those who score above average on the negative styles and below average on the positive styles are not open to new experiences and negative towards themselves as well as others.

All this considered, how might these differing styles and personalities of jurors effect the group decision-making process during juror deliberations? More importantly, are certain people more likely to utilize a certain style over others?

### Mock Trial Research

In order to find out the effect humor and humor styles can have on the group-decision making process, especially that of jurors deliberating the outcome of a case, a review of mock

jury research was conducted. This review uncovered different classifications of how humor gets used and what style an individual is likely to use based on a number of demographic factors. For this current study, three deliberation groups containing 8 jurors each in 15 mock trials (n=45 groups total) were reviewed to determine an individual's propensity toward certain kinds of humor use based on sex, age, race, class/status, geographical location and religion.

To begin, humorous communication was used quite frequently throughout each deliberation group that was observed. In general, each deliberation group, lasting about 60-minutes on average, revealed between 20 and 30 instances of humor episodes where laughter or chuckles were elicited. That translates to one instance of humor every two-three minutes, give or take, making humorous communication an ever-present part of the deliberation process.

With regard to the findings, this research found no significant differences between men and women on adaptive/productive humor styles. However, there was a significant difference between men and women on the maladaptive/unproductive styles. The results showed that male jurors tend to endorse both the aggressive and the self-defeating humor styles more often than female jurors. Male jurors told more jokes on average. Their jokes, often inappropriate, mean-spirited or self-deprecating, were usually more successful than when females used the same kind of humor. However, female jurors joke much more when no male jurors were present (which was the case in 5 of the 45 groups).

In addition, over 40% of male juror's humor productions were other-oriented, meaning they were making a joke at the expense of either someone else in their deliberation group or someone outside of the group itself, compared with 26% of female jurors who used humor. Interestingly, of the women who used other-oriented humor, three out of four instances were using outsider-directed humor, meaning they were not making jokes at the expense of anyone in the group. They would poke fun at the attorneys who presented, the parties involved in the case and sometimes even the trial consultant!

With regard to age, it should come as no surprise that younger participants (aged 18-28) scored significantly higher on the aggressive humor styles than older jurors. Jurors over the age of 60 tended to use more self-defeating/deprecating humor as well as adaptive/affiliative humor.

This research found that Caucasian respondents averaged higher scores than both African-American and Hispanic

respondents with regard to using aggressive humor in deliberation groups. African-American respondents averaged higher scores on self-deprecating/defeating humor. Furthermore, results from this study indicate that Caucasians place more importance on humor production (e.g., telling jokes) while Hispanic jurors place more emphasis on using humor to cope with difficult situations heard in the case (e.g., loss of a child, wrongful death). There were several instances where Hispanic jurors more than any other race would initiate a humorous exchange when discussing sensitive topics in order to lighten the moods of jurors in the group and deter any unwanted emotions.

One interesting finding that emerged from this research without regard to sex or race is that being the object of repeated interruptions makes speakers less likely to volunteer a humorous remark. And, being a frequent participator and interrupter made one more likely to engage in successful humor. In looking at demographic information and comparing it to jurors who were more likely to be interrupted, those who hold a non-supervisory position and earn less than \$35,000 per year were more likely to get interrupted as opposed to their higher-earning counterparts. Putting all of these patterns together, there is fairly consistent support for the proposition that joking and using humorous communication is a behavior in which high status people engage (at least in status differentiated group contexts). Therefore, group leaders/forepersons or those who have high standing within the group because of some status characteristic imported from the larger social structure are more likely to engage in the usually positive and always powerful acts of humor production.

With regard to geographical location, there is the potential for various regions to have an influence on jurors' use of humor. Comparing three different regions of the United States (California, East Texas, and New York), there was a significant difference in humor styles across these regions. For example, participants in East Texas scored significantly higher on affiliative humor than those in New York and California. Jurors in East Texas use humor to foster relationships and forge connections among participants.

They joke about food (sometimes the food being served at the focus group facility or hotel where the mock trial was taking place), their jobs, children and a myriad of other relational topics. Furthermore, they engaged three times more than both their New York and California counter-parts in humor directed at the attorneys, witnesses and clients at the mock trial. Typically being of lower socio-economic status than both New York jurors as well as California jurors in this study, East Texas jurors tend to use damage discussions, especially in cases where damages were over \$50 million, as a way to differentiate themselves from the parties in the mock trial. They would make jokes with one another about the amount of money parties were requesting as a way to relate to one another and bond as a group, often leading to more harmonious and unanimous end results.

Jurors in New York venues tend to use aggressive humor more often than their East Texas and California counter-parts. Often times, their use of aggressive humor was directed at other

members of the jury, which caused contention and hostility among the group and detracted from the deliberations. While California jurors also use aggressive humor, it was more often than not directed at parties and situations outside of the group. Like East Texas jurors, California participants tend to use humor as a way to foster solidarity and group cohesion by poking fun or joking about something outside of the group.

More than half of the deliberation groups participating at New York mock trials had results that were not based on a consensus but more based on the negative affect of groupthink. They came to an outcome but it was often not unanimous or if it was, there was usually some coercion involved. Over three-quarters of the deliberation groups in East Texas that was observed for this research reached successful outcomes where all members were in agreement in the end and left the table appearing as though they were satisfied and happy. Similarly, over half of the deliberation groups in California mock trials also achieved harmonious end results with group members seeming satisfied with the process. It can be inferred that humor may have had something to do with these results.

With regard to religion/spirituality, results from this study suggest jurors who score high on religiosity/spirituality tend to use aggressive humor less often than those who score lower on religiosity/spirituality measures. On the whole, jurors from parts of Texas and Louisiana tend to report stronger affiliations with religious institutions than in other parts of the country such as Southern California and New York. When observing deliberation groups, it was evident that jurors from Texas and Louisiana used more affiliative forms of humor rather than aggressive types of humor. They also used self-deprecating/defeating humor more often than any of the other deliberation groups outside of Texas and Louisiana. Based on this research, it can be said that being religious implies a different kind of humor utility.

### **What Does All Of This Mean?**

Based on the research conducted, it can be suggested that certain uses of humor such as affiliative and self-enhancing humor can help to build group cohesion. This finding is consistent with several theoretical developments concerning the relationship between positive emotion and group cohesion. Lawler and his colleagues (1992) argue that positive emotion leads to increased commitment to the group. Lovaglia and Houser (1997) argue that positive emotion (especially when experienced by high status individuals) decreases resistance to influence and works to equalize status relations. Similarly, other social psychological research reveals that people in a good mood are more compliant and engage in more benevolent behaviors (see review in Isen, Daubman & Nowicki, 1987). Thus, if we assume that humor serves to, among other things, increase positive emotion, we might expect joking to be used as a strategy for increasing members' affective ties to the group resulting in more productive and consensual verdicts among deliberation groups.

Of course, all of this is true for humor that works. Affiliative humor, which has a positive intent and arises out of one's compassion for a person or situation, serves people

well. Conversely, aggressive humor undermines productivity in a group, well-being and group solidarity. In many of the deliberation groups where aggressive humor was spotted, group discussions broke down and individuals were distracted from the goal at hand focusing, instead, on personality related differences. This type of humor negatively targets an individual for a misdeed or character flaw. Someone may use it to show his or her superiority, as a form of passive aggressiveness or as punishment. It causes people to withdraw, feel more irritated and less motivated to come to a decision in a group setting.

While developing the HSQ, which was discussed earlier in this article, Martin et al. (2003) hypothesized the different humor styles would each correlate with the Big 5 personality traits. After constructing the HSQ, Martin and his colleagues administered the HSQ to a sample of university students. These researchers found Openness and Extraversion to be positively correlated with both adaptive styles of humor, Agreeableness and Conscientiousness to be negatively correlated with both maladaptive styles of humor, and Neuroticism to be negatively correlated with self-enhancing humor and positively correlated with self-defeating humor.

These findings support the results of this current study on jurors' use of humor. The more open and outgoing a juror was, especially if they were elected as the foreperson, the less likely they were to use maladaptive/aggressive humor. Similarly,

the more agreeable and self-aware a juror is, the more likely they are to use affiliative/productive humor. Interestingly, jurors who displayed characteristics of neuroticism (either in their discussions or in their intake questionnaires) such as anxiety, stress, and negative feelings were often found to be quite humorous by fellow jurors. Usually, these types of individuals used self-defeating/deprecating humor poking fun at themselves for the benefit of the group. In these instances, group harmony was often established and there was less tension and disagreement while deliberating the verdict.

#### Courtroom Implications

So what does all of this research mean for the courtroom? For one thing, it illustrates that humor matters during the group deliberation process. It can help us understand why some groups are more harmonious and cooperative than others and how effective a foreperson can be especially if they use humorous communication. Again, out of the 45 groups observed, humor was observed 20-30 times during each deliberation group.

Humor can help us determine which jurors are best suited for the panel based on their interaction with attorneys during voir dire as well as the questionnaires they fill out for jury duty. Below is a chart that summarizes ideal vs. non-ideal jurors based on humor use that was collected for this study:

### Ideal Jurors Based on Humor Style

Affiliative Humor Use:	Self-Enhancing Humor Use:
Women (all ages)	Hispanics
Men > 60	California/West Coast
Religious	Non-religious
E. Texas/South/Bible belt	Low-income earners
High-income earners/supervisory positions	

### Non-Ideal Jurors Based on Humor Style

Aggressive Humor Use:	Self-Defeating/Deprecating Humor Use:
People aged 18-28	African-Americans
Males < 60	Religious
Caucasian Males	People > 60
New Yorkers	Women > 60
California	
Non-religious	

What this chart and this research reveals is that ideal jurors are those likely to engage in affiliative humor as well as self-enhancing humor use. They are individuals who aim to foster connections and solidarity through their use of humor in the deliberation room. They are also likely to help quickly diffuse any tension or stress that the group may experience through their use of humor.

On the other hand, less ideal jurors are those that partake in the more maladaptive styles of humor such as aggressive and self-

deprecating types of humor. These individuals are more likely to have the potential to distract from the group deliberation process by provoking hostility or dismay through their joke-telling or humor use. Individuals who use self-defeating or self-deprecating humor are less likely to be taken seriously and will most likely not emerge as leaders. For these non-ideal jurors, their use of humor will be less productive to the group process and will be less likely to result in a cooperative, consensual outcome.

Like everything else in the business of trial consulting, this chart is meant to be a quick reference tool used when evaluating potential jurors and is also completely dependent on the trial venue as expectations will differ region by region. This chart and research is also meant to bring humor to the foreground of the group deliberation process. It is evident that different types of humor can affect decision making and the emotional climate of the group.

For attorneys and trial consultants, it may prove useful to pay attention to humorous exchanges during voir dire. Referring back to personality traits, if a juror happens to use one of the four humor styles discussed in this article, it could offer insight to their personality and behavior as a potential juror. This research revealed that individuals who used aggressive humor tended to be perceived as manipulative and coercive which may make them ineffective jurors. Similarly, jurors who engaged in self-defeating/deprecating humor were perceived as lacking confidence making them unlikely to be listened to or serve as leaders.

On the other hand, jurors who used affiliative humor were

positively correlated with agreeableness and extraversion. They were usually the more outgoing of the jurors and often served as leaders with other members listening to what they had to say. Similarly, jurors who used self-enhancing humor in order to diffuse stress were seen as the “heroes” of the group and rewarded with others paying attention to what they have to say.

This information becomes useful for attorneys and trial consultants at jury selection. Perhaps a juror cracks a joke about attorneys or the entire judicial process during voir dire. To the opposing side and the court as a whole, this person may come off as confident and potentially even a leader based on their willingness to joke while being questioned. On the contrary, if this joke could be classified as aggressive humor use, we know that this person is likely to disrupt the group process and cause an unhealthy group climate during deliberations potentially damaging the outcome of the case. It becomes important to know what kinds of humor use correlate with specific personality traits. Below is a chart that outlines personality traits commonly associated with the different types of humor usage:

Affiliative Humor	Self-Enhancing	Aggressive Humor	Self-Defeating Humor
Agreeable	Compassionate	Cold	Insecure
Friendly/Outgoing	Sensitive	Careless	Cautious/Shy
Curious	Inventive	Manipulative	Nervous

This chart, along with the chart above on demographic information as it pertains to humor use should be used in tandem when evaluating a potential juror. Their use of humor can be prove to be a strong indicator of the kind of juror they will be once engaged in the deliberation group. Knowing what you are looking for in a juror can be revealed through their use of humor. Used effectively humor can help people get along, be perceived as being more likeable and increase persuasive ability. Humor use among jurors in the deliberation room can also make the difference between a win and a loss in court. And that’s no joke. ©

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