

SUBSCRIBE via [RSS](#)

SUBSCRIBE via [Email](#)



# The Jury EXPERT

*The Art and Science of Litigation Advocacy*

A BiMonthly E-Journal

Volume 22, Issue 5, September 2010

**Between Coddling and Contempt**

A follow-up to our literature review on Millennials. Info on Millennial work ethic, strategies for managers and self-management tactics for the new Millennial attorney.

Page 1

**Snips, Snails and Puppy Dog Tails**

Male and female communication styles, impact on the listener, and how to strategically choose one or the other to be most effective in your courtroom communication.

Page 15

**Out of the Shadows, Into the Jury Box**

What is a shadow jury? What are the benefits? And how is a high quality shadow jury recruited, conducted and of benefit to you?

Page 23

**Case Strategy for the Civil Defendant**

Effects of Injury Severity and Rebuttals on Liability and Damages. Original research on damages presentation.

Page 29

**"I Hate That #@\*%!"**

Overcoming the he-said-she-said issues in family law cases. Examples and intervention in complex and emotionally charged family law case.

Page 33

**Could the iPad Pick your Next Jury?**

An iJuror app review with ideas on what it can do, what features would add value, and whether it's ready for prime time.

Page 41

**Holy War Questionnaires**

How do you examine bias against Arab or Muslim parties in pending lawsuits? Sample questions to elicit bias for inclusion in SJQs or voir dire.

Page 46

**Neshoba: The Movie**

Seven 40-year-old civil rights cases successfully tried (and one mistrial). Interview with two trial consultants who worked on these cases: how they participated, what it was like, what it means for now.

Page 52

**Between Coddling and Contempt:  
Managing and Mentoring Millennials  
by [Douglas L. Keene](#) and [Rita R. Handrich](#)**

*"It ain't what you don't know that gets you into trouble.  
It's what you know for sure that just ain't so."*

--Attributed to Mark Twain

Millennials. They are 30 years of age and younger. They are the hardest hit by the ongoing economic recession. And they are, if we are to believe [internet blogs and some articles](#), apparently lazy, narcissistic, clueless, stupid and incompetent. Wow.

They are also the youngest generation in the workforce and, as such, they are targeted for all manner of negativity, maligning, scape-goating, and criticism. It seems to be what we do over and over again.

For a review of attitudes toward Millennials, see our article, [Tattoos, Tolerance, Technology and TMI](#) in the July 2010 issue of *The Jury Expert* ([Keene & Handrich, 2010](#)).

If you think yourself familiar with the general attitudes toward the Millennials (aka Gen Y), we invite you to travel back in [Time](#) (Magazine) to a twenty-year-old article talking *about that* new generation in the workplace.

The similarities between what we tend to think of the Millennials and what we thought of Generation X are breath-taking on first review. We think it likely that articles on the Boomers as they entered the workplace would be similarly negative. We tend to forget our callow youth and focus instead on our accrued ‘wisdom’ and interpret differences between “us” and “them” with “them” being found wanting. We have thought this way (and written it down) for thousands of years.

Attorneys (despite first-hand observation of biases in the courtroom) are hardly immune from this sort of thinking and writing. For the sake of brevity, we’ll skip ahead a couple millennia and take a look at what attorneys are saying and writing about Millennial generation attorneys today.

The derogatory term ‘Slackoisie’ was (according to the [Urban Dictionary](#)) coined by attorney J. Daniel Hull who authors [What About Clients?](#) blog and popularized by attorney Scott H. Greenfield of [Simple Justice](#) blog. The definition for ‘slackoisie’ follows:

*“It refers to: (1) a class of narcissistic young professionals, particularly attorneys (usually Gen Y/Millennials), who believe that having a job is an entitlement, rather than a privilege. They often complain about the work they have (if working), opine the lack of “real lawyer” jobs available in the market, and are critical of the long hours and inadequate pay found at most small firms. They believe they are entitled to work/life balance, that their opinions on any subject are inherently important and that whatever benefits they enjoy are inadequate. The Slackoisie are more interested in having a place to go in the morning and some spending money than committing themselves to their clients and the profession; or (2) a slacker with an exaggerated sense of self-importance and entitlement.*

From the [UrbanDictionary.com](#) (with spelling/grammar errors corrected)

***“I see no hope for the future of our people if they are dependent on frivolous youth of today, for certainly all youth are reckless beyond words... When I was young, we were taught to be discreet and respectful of elders, but the present youth are exceedingly wise [disrespectful] and impatient of restraint.”***

***(Hesiod, 8th century BC)***

Hull and Greenfield have left an internet trail of concerns/complaints about young lawyers. (See Hull [here](#) and [here](#). See Greenfield [here](#) and [here](#).) While both of these men have many other posts documenting their informed thoughts on and reactions to other areas in the practice of law, they are curiously one-note writers when it comes to the Millennials—or as they call them, the Slackoisie. A fairly contained discussion (featuring both Hull and Greenfield) on the Millennials at work can also be found in the comments at Stephanie West Allen’s [idealawg](#). Stephanie includes multiple links to the ongoing debate around the web if you are interested in reviewing the breadth and depth of the controversy before reading further.

A tongue-in-cheek example of the differences between generations (presented from the Boomer's perspective) is given in a report on Millennials at Work published by DeLoitte ([Smith, 2008](#)).

- Baby boomers: *“Work, work, work. It’s what we’re about.”*
- Gen Xers: *“Work. Work more with flexibility. Work even more? Let’s talk!”*
- Millennials: *“Work flexibly anywhere, but I need complete access to information and the answer to ‘Why?’ Work anytime ... on my terms. Work even more? That is so lame. I’m texting all my friends to tell them how lame you are!”* (p. 8)

Some Millennial bloggers have struck back with their own thoughts about the Millennial workforce. You can see a law student perspective from [Fearfully Optimistic](#) blog; a young attorney’s thoughts at [Eiler Law Group](#) Blog; a young contributor at [The Awl](#) website responding to Boomer characterizations of Millennials as “lazy”; and an interesting reaction from a Millennial writer to an incident involving the [Today Show](#) intern as described by two morning show hosts. Even a wise Gen Xer weighs in with an [“open letter to young lawyers”](#) about entering the world of work while maintaining a true sense of self. (Must reading for any ‘young lawyer’ and the rest of us as well.)

So are the naysayers right in their assertions that the responses to Millennials at work are best characterized as either coddling (e.g., [“foot rubs”](#)) or contempt (e.g., they are [“worse than”](#) other generations)? Is this generation uniquely lazy, incompetent, “worse than” previous generations, only interested in being given rather than earning rewards, and in narcissistically tweeting their every thought? Let’s [‘separate the wheat from the chaff’](#) by looking at what we can really know based on research.

### Exploring Evidence for Assumptions

*Are Millennials lazy with bad attitudes? No.*

According to an IOMA publication (2008), Millennials have a strong work ethic but crave flexibility. If we look historically at the generations, Deal, Altman & Rogelberg (2010) point out there is no difference in the number of hours worked by Millennials and by Generation X members at the same age. Further, Millennials work *more* hours than did Boomers at the same age, in 1977.

Staff & Schulenberg (2010) also report that Millennials did not work fewer hours in high school than did either X’rs or Boomers at the same age. Deal, Altman & Rogelberg (2010) conclude that while it’s an easy answer to say generation is the reason young people work less, it is an incorrect assumption. Level in the organization (as opposed to generation) is the primary determinant of hours worked.

The 2008 [National Study of the Changing Workforce](#) shows there is no indication that Millennials do not want to take on more responsibility in their jobs. Indeed, for the first time since 1992—both men and women are equal in their reports of wanting more responsibility in their work. The difference is that “long-term demographic changes are the driving force behind gender and generational trends at work and at home”. What that means is that we’re seeing more shared responsibilities at home, more two-income families, and more prioritization of family over work. Generation X began this trend and the Millennials have expanded on it.

And finally, there is no real empirical evidence that Millennials have a bad attitude. They, in fact, have a more positive attitude toward their employers than do Boomers or Generation X members. It is probable that the



negative attitudes directed toward Millennials today is the old guard's consistently predictable reaction to new generations (Kowske, Rasch & Wiley, 2010).

*Do they believe they are entitled in the workplace?* Maybe.

Millennials do want to have meaningful work, have fun at work, and be respected for their contributions (Kovarik, 2008). They optimistically expect success and tend to be impatient because they want immediate feedback (Wood, 2006). They expect organizational accommodation (Hershatter & Epstein, 2010). They dislike menial tasks, expect to move ahead quickly based on skills rather than experience, and are easily bored ([Eiser, 2009](#)).

While it's easiest to presume narcissism and entitlement as the roots for this expectation and behavior—it is important to consider the life experiences of the Millennial generation. Thanks to the [No Child Left Behind Act](#) and laws like the [Americans with Disabilities Act](#) (ADA), [IDEA](#), and [Section 504](#) of the 1973 Rehabilitation Act, Millennials have grown up in a world that accommodates them. Schools have modified education for them. They've been allowed to use tools that help them achieve at the highest level. They have always had this. They expect it. And that makes sense. It isn't necessarily entitlement (although it could be in some individual instances) when it's how your world has always been ([Erickson, 2008](#)).

*Are they lacking in loyalty and appreciation?* No.

Fernandez (2009) compared the work beliefs of Generation X and Generation Y and found that Generation Y (aka Millennials) had higher levels of work engagement, saw themselves as more loyal and more content with teamwork possibilities. This finding was echoed by Hershatter & Epstein (2010) who wrote about the greater institutional loyalty of the Millennials as compared to Generation X. Millennials actually want to be involved and want to help within your organization (IOMA, 2008) as compared to Gen X, who more often want to be left alone so they can do their jobs.

Millennials were raised with teams. Sports teams. Teams for school projects. They socialize in groups, and they are used to working in groups. They expect to be heard. They are non-hierarchical and as computer/tech experts, often have central roles on teams with older peers in the workplace ([Weston, 2006](#)). Technology is second nature to them but they are much more social than their predecessors (Generation X) in the workplace and they expect interaction (IOMA, 2008; Reisenwitz & Iyer, 2009).

*Are they needy and immature?* Probably (as were we all).

Millennials are often described as constantly seeking reassurance and managers report this is exhausting, overwhelming, and annoying. (Hershatter & Epstein, 2010). They expect easy and frequent access to authority figures and have high expectations for being listened to by colleagues and supervisors (Eiser, 2009).

It would likely help to remember that they are young, these are often their first jobs, and it's generally scary to enter the world of work. Millennials have been taught to share their worries and to expect to have the way smoothed for them once those worries are expressed. Hershatter & Epstein (2010) suggest we view new Millennial employees like kids learning to ride bikes. Start your teaching/orientation with training wheels (and helmets) and don't let them crash to the ground and be disheartened of trying again.

*Why do they push Boomer's buttons?* Because it's what they do.

One stereotype actually supported by the empirical research is that Baby Boomers are ambitious workaholics who are critical of anyone not sharing that perspective/value (Myers & Sadaghiani, 2010). Millennials violate Boomers' expectations with their apparent disrespect toward Boomers' tendency to prioritize work. [Expectancy theory](#) says that we judge other's ability to fit into the existing workgroup and

workplace culture. If they behave as we expect, we allow them in. If they do not, we do not accept them and sometimes, we demean and derogate them.

In brief, many Boomers *expect* Millennials will ‘pay their dues’, and ‘earn respect’. These are values Boomers adhered to in moving up in the workplace and they expect Millennials to behave in the same way. Generation X did not do this (they were the original ‘job-hoppers’) and Millennials will likely not do it either. And further, Millennials see the idea they should “pay their dues” as a disrespectful attitude toward them. They want to be respected and valued for what they contribute, not for their longevity ([Smith, 2008](#)).

Boomers are now at or near the age of the authority figures they so rebelled against in their youth. And as such, Boomers are in the awkward position of becoming the [grumpy old men and women](#) of today. The family of origin, social, economic and technological circumstances Boomers experienced as they grew up are gone and will not return again. The world has changed. Attitudes toward the place of work in our lives have changed. Boomers can embrace that change and adapt to new attitudes toward work, ambition and success, and or find themselves isolated. It is, therefore, wise to examine what Millennials might want from the workplace and what they might contribute to the workplace as they join it in ever-increasing numbers.

What Millennials Might Want from the Workplace	What Millennials Might Bring to the Workplace
<b>Fewer work hours:</b> as the centrality of work in personal identity declines—Millennials will likely want to work fewer hours. (Deal, Altman & Rogelberg, 2010).	<b>Higher healthcare costs:</b> their higher obesity will result in higher levels of disability and medical costs if it continues (Deal, Altman & Rogelberg, 2010).
<b>Flexibility:</b> Flexible work arrangements, telecommuting, international work, more social work time, meaningful relationships with clients and peers, flatter organizational structures, socially and environmentally conscious employers ( <a href="#">Shaikh, 2010</a> ).	<b>One world:</b> Recognition of a globalized world with cultural and social consciousness a more active component of organizational awareness and focus ( <a href="#">Shaikh, 2010</a> ). Community service orientation ( <a href="#">Smith, 2008</a> ).
<b>Communication:</b> Memos in bullet points; short presentations and interactivity; small doses of information continually; webinars that entertain and educate; use of social media (Dorsey, 2010)	<b>Balance:</b> More awareness of and desire for work-life balance. As they demand flexibility, the rest of us may begin to see the benefit in having more work-life balance ( <a href="#">Galinsky, Aumann &amp; Bond, 2009</a> ; Myers & Sadaghiani, 2010; <a href="#">Smith, 2008</a> ).
<b>Pats:</b> Rewards commensurate with contribution. In addition to pay and perks for what they contribute, Millennials also want more “pats” than prior generations (IOMA, 2008).	<b>Increased productivity:</b> Millennials are proficient users of productivity software and may bring increased productivity to the workplace ( <a href="#">Trunk, 2010</a> ).
<b>Bosses who:</b> care, are direct and honest, mentor and coach, help me learn, and are flexible (Meister & Willyerd, 2010).	<b>Happiness:</b> Increased optimism, idealism, traditional values, uniqueness (Reisenwitz & Iyer, 2009). <a href="#">Trunk</a> says they’ll make the workplace “nicer”.
<b>Smaller place:</b> Millennials prefer a smaller organization—like perhaps a boutique or solo practice ( <a href="#">Smith, 2008</a> ).	<b>Loyalty:</b> and longevity based on a positive relationship with employer or supervisor ( <a href="#">Smith, 2008</a> ).
<b>Redefinition:</b> of how we see ambition and success to incorporate flexibility for family and personal life ( <a href="#">Smith, 2008</a> ).	<b>Change acceptance:</b> Millennials demonstrate flexibility and persistence in the face of change ( <a href="#">Smith, 2008</a> ).

## Summary

There is no actual empirical evidence to show that Millennial employees as a group are lazy, entitled, disloyal, or unappreciative. They are, however, young and inexperienced and looking for reassurance (more reassurance than you might want to provide in the workplace). Millennials have been taught to question authority and they have much to learn. It is tiring. But answer those questions and they will learn and adapt and contribute. And, they may even make you think a bit if you consider their questions seriously. The voice of inexperience can also be a fresh perspective.

A growing body of empirical work suggests that beliefs about whichever younger generation is entering the workforce have remained stable over the past four decades (Deal, Altman & Rogelberg, 2010). In other words, what we believe about the work ethic and attitude of Millennials, is also what those already in the workforce believed about Generation X and yes, even the Baby Boomers when they entered the workforce.

So what can you do to become more effective and avoid repeating historical mistakes in working with this next generation of attorneys? The research has many ideas but all of them involve listening to what these new employees have to say rather than dismissing their ideas as ill-advised, immature, inexperienced or whiny.

### Why should I bother?

First, you should bother because time continues to move forward whether we like it or not. Just as you've had to learn new ways of filing (electronically), doing research (online and not in the library stacks), interacting at work (thanks to civil rights laws and anti-discrimination laws), communicating (increasingly electronically or via teeny smart phones), choosing juries (considering how evolving rules, current events and attitudes play for your case), and countless other tasks—you also have to learn new ways of working with the next generation. It's what workplaces that thrive and adapt do. It's that simple.

Second, this is a question of simple demographics and the law of supply and demand. The Millennial generation starts out small and grows. They will enter the workforce more slowly than the Boomers did and this gives them more bargaining leverage ([Smith, 2008](#)). You may not like it. But it's a reality. There will be fewer choices so why not learn and train to retain now?

Third, the technology exists to allow Millennials to have the flexibility to work from anywhere (even Starbucks) rather than being tied to the office for 60+ hours a week. The only real reason to require they stay in the office is to exercise control over them. There are several issues we think are important for a law firm to consider as you hire, orient, train and attempt to retain Millennial attorneys:

- **Culture:** What is the culture of your firm? Is it a cranky principal who doesn't do technology and expects unwavering obedience? Be honest about that. If you have a more traditional principal who is genuinely interested in learning and teaching—tell them that. The important thing is that you are genuine as to who you are and what you want. What is the emotional and interpersonal tone of your office? You need to understand what you are offering, what you are expecting, and what a novice will experience as the pressure to perform climbs. It's tempting to 'sell' a position to a strong candidate, only to face their dissatisfaction when reality hits. If there is a mismatch of expectations and performance, it behooves both sides to consider where the miscommunication lies.
  - You may worry that this shows too much of your dirty laundry to a potential new hire. When would you like them to see it—before you hire them or after you invest hours in training and orienting? Be honest. Be genuine. You (and they) will be glad for your candor.

- **Concrete expectations:** Clarify what you expect. Make it about work product and not hours per week or day. If expectations vary based on caseload, let them know. Spell out dress expectations. Identify resources available to them. Talk with them about flexibility—do you have it? What is flexible? What is not?
- **Salary:** The debate on the future of billable hours is obviously larger than we can address here. Think through where you are willing to go with salary. If someone wants to work part-time, is that an option?
- **Career path:** Give some thought to a career path. How does a new hire get ahead? Is this a dead-end job or is there mobility? What transferrable skills can you offer as a new hire progresses in knowledge and experience?

There are likely many more areas of import to you or your firm. Thinking about how you have done business, how you want to do business in the future, what your firm stands for/represents—are all important areas to define as you consider new hires. We often tend to simply ‘do’ without thinking about ‘why’ or ‘what’ or ‘how’. If you are hiring someone to bill hours and create output, you will not be building loyalty. You are employing a widget to produce a commodity. That isn’t a bad thing, and it was somewhat expected by previous generations. Among Millennials, the feeling of connection and commitment is essential to sustained loyalty. Hiring employees trained to ask ‘why, why, why’ from an early age is a good impetus to consider why you do that thing you do.

The following recommendations for effective management of Millennials are based on research and on our years of experience providing management consultation to managers in multi-generational workforces.

The Millennials may or may not be the “next great generation”, but they are the next generation and they are our future. Mentoring the Millennial has to be planned out and thought through—and for an example of mentoring gone right we turn to a somewhat surprising employer: the Central Intelligence Agency (CIA)! The CIA (now ranked #32 in [Top Places to Work by BusinessWeek](#)) boasts a retention rate of 94% of their Millennial employees (Hershatter & Epstein, 2010). They do this by incorporating mentoring and collegial communication across the organization. If the CIA (a huge and bureaucratic government entity) can find ways to employ and retain Millennials, so can you and so can your law firm!

### Managing Millennials (and watching yourself)

1. **Lead:** Millennials are hungry for leadership and direction. So be a worthy leader. You want to lead as an experienced colleague helping them to avoid mistakes—not as an authoritarian boss with a “because I said so” attitude. Be respectful when you give them feedback. This is not a call to coddle them, but rather a challenge to mentorship. Tell them about your mistakes as you were learning (and the mistakes you make now). A recent law review article encourages professors to be a “guru”—a charismatic leader people want to follow. Guru’s are not perfect, but they are successful, and they have lessons to teach and accrued wisdom to share. Be a good teacher and you will be a good leader (Bohl, 2008).
2. **Communicate:** As you train employees, define the language of your law firm culture, such as idiomatic sayings (like “separate the wheat from the chaff”; or “[sour grapes](#)”). Older speakers (ahem... that would be those above 30) make assumptions that everyone knows what these cultural references/idiomatic sayings mean. They don’t. You are wise to [simply say what you mean](#), or at the least, make sure that your intent is understood (both to juries and to younger associates). And we would recommend you not make reference to “pearl necklaces” in training or in jury presentation.

- a. **Email revolutionized the workplace.** Some of us struggled against it fifteen years ago, but today we see it as an inescapable fact of life. Millennials bring changes in how communication is done. Their texting and instant messaging may replace email and phone calls over time. In the now, however, expectations of responding to voice mail, email and other traditional communication modes can be communicated and enforced.
3. **Respect:** Show respect by combining support and challenge, and asking for their input in their areas of expertise (Eiser, 2009). However, do not make the mistake of asking for input without seriously considering it. Millennials are quick to identify those who simply go through the motions without seriously considering suggestions.
- a. **Respect has to be mutual.** A common complaint about Millennial generation employees is that they find certain tasks beneath them and only want to do those tasks they find to be of interest (Hershatler & Epstein, 2010). The leadership task is to make clear why the assignments need to be done and why they are important. Make sure Millennials' tasks are not all unattractive ones, give them some variety—but help them understand that some jobs are simply not that much fun but still need to be completed. Should this be necessary? Baby Boomers will say “no” (or more likely, “hell no”), but the job of leadership in a multigenerational workplace goes beyond doing what you would require yourself, and to speak to what is important to your employees, too.
4. **Interact & Inform:** Provide opportunity for staff interaction and make sure this interaction is crossing age groups and level within the organization. Allow and promote the exchange of information by creating internal networks for communication and education. Keep employees informed about organizational activities, interests, and commitments.
5. **Informal Attire:** To the extent that formal attire is optional, allow it to be more relaxed. Communicate clear expectations about what “informal” means. If it means no cut-offs or flip-flops, say so. Even in relatively ‘relaxed’ firms, there are obviously meetings and events that would oblige formality. Make clear an expectation that complete traditional formal business attire be kept in the office for unexpected meetings (Messmer, 2008).



6. **Mentoring:** Millennials are more open to authority figures than either Boomers or Gen Xers were at the same age. They are very willing to be mentored. But let the mentoring work both ways!

- a. **Consider [reverse mentoring pairs](#):** Place tech-proficient Millennials with senior manager boomers who can learn while teaching. More than 75% of Millennials report they enjoy working with Baby Boomers and more than 58% say they ask Boomers (not Xers) for mentoring and advice (Hewlett, Sherbin & Sumberg, 2009; Ali, 2010).
- b. **Effective Millennial Mentoring:** Millennials thrive in a structured and supportive work environment where they can interact and do work that has meaning for them (Simons, 2010). Again, this does not mean you have to allow them to do only what they want to do. It simply means being aware of what brings meaning to them, explaining how some tasks are mindless but imperative, and be sure they have other tasks that resonate with them.
- c. **Structure it:** Millennials value structure so make sure your ‘mentoring’ is not solely informal. Schedule planned times for mentoring ‘sessions’ in addition to informal interactions.



- d. **Encourage longevity:** While there is much (not empirically supported) talk about Millennial job-hopping, we know that Millennials develop commitments to individual supervisors with whom they have meaningful relationships. Mentor, give feedback and praise, and you can have a long-term, loyal, committed and productive employee (Myers & Sadaghiani, 2010).
- e. **Show them a clear career path:** What is the path? What are the benchmarks? What is the general timeframe for reaching those benchmarks? Concrete and behavioral information (i.e., information they can ‘see’ and ‘hear’) will help your new associates understand both what is expected and how they can excel.
  - **A sense of control:** Knowing how to move ahead and what they can do to excel is a gift to the new hire. Give the gift of control! This does not create a cost for you. It’s actually an investment in the future of your firm. Clarity of career path promotes feelings of being valued and cared for—important for all of us, and especially for the Millennials.

7. **Common Sense:** Give them specific and detailed instructions. These are areas where Millennials may simply have ‘holes’ in their knowledge.

- a. **Dress:** Establish a dress code (clearly spelled out, not simply “professional attire” or “business casual”). Remember this is the “Why” Generation. Be prepared to explain ‘why’ you have the dress expectations you communicate to them.
- b. **Curb Resistance:** Explain the reasons for your expectations and they will be less likely to resist.
- c. **Examine yourself:** As you explain ‘why’ you would also benefit from asking yourself ‘why’ things are done in this way. Is tradition enough of an answer? Is it necessary or is it simply habit? Millennials expect flexibility and it doesn’t hurt you to embrace change yourself as you ask them to change how they are behaving.
- d. **Why can’t they sink or swim?** We often hear some variant of this question. Many of us in prior generations were trained by simply being thrown into the workplace and we either adapted and learned or we didn’t. That approach is simply so foreign to the Millennial that it sets them up for failure. We raised our Millennial generation to expect structure and clarity and clear expectations for performance. We told them to question authority. So they ask questions. And now we have to provide the answers.

<b>Financial realities for Millennials</b>
Millennials are being affected by the recession differently than other generations and we can expect these effects to linger for a decade or more (Deal, Altman & Rogelberg, 2010)
Their higher rates of obesity will limit life expectancy and make their medical bills higher (Deal, Altman & Rogelberg, 2010)
Almost 1/3 are uninsured and cannot pay their bills. 70% do not have enough saved to cover 2 months of living expenses ( <a href="#">Thurman, 2010</a> )
For Millennial attorneys: there are 30,000 attorney positions opening per year with 45,000 new JDs every year. Fully 1/3 will not find jobs as attorneys ( <a href="#">The Jury Room, 2010</a> ).

8. **Coaching:** Much is said about the importance of honest, useful, and timely coaching for Millennials and it's true. They benefit. But so do the rest of us. When you take the time to share feedback, others feel valued, empowered and engaged (Meister & Willyerd, 2010). Avoid a 'take it or leave it' attitude and see yourself as actually wanting to understand and 'grow' your firm as you help new employees professionally develop.
9. **Gender-neutral Policies:** Make sure you have the same policies and expectations for men and women. That sounds simple and likely routine, but among both male and female Millennials, it is a violation of personal values, not just the law. Employers have ended up in court for making women (but not men) cover their tattoos (Deal, Altman & Rogelberg, 2010).
  - a. **Discrimination policies:** We need to continue to define and understand what attitudes can get us in trouble. Tattoos are one handy source of bias for many of us who are over thirty ([The Jury Room blog on tattoos](#)). Pay attention to your automatic biases.
10. **Fill Educational Holes:** This is a generation who can gather data faster than you can think of a question. They do not tend to evaluate the data based on source credibility though, and tend to accept facts gathered at face-value. It is accepted that holes in the knowledge of the Millennial generation cause obstacles in the workplace (Deal, Altman & Rogelberg, 2010).
  - a. **Identifying holes:** Strong potential can be missed if you focus only on what new hires are *lacking*. Identify what they are missing, and use orientation, early career development and mentoring to remediate the inevitable holes young hires will have to fill (Deal, Altman & Rogelberg, 2010).
  - b. **Writing skills:** Even high-profile corporations are having to offer remedial writing courses to get new hires' business writing up to speed ([Smith, 2008](#)). You will likely need to assess writing skills and perhaps offer training in writing briefs and motions. This is a learned skill. Give them the training they need to succeed. Research and writing are not emphasized in all law school curricula as they have been in the past, so more on the job training may be required.
  - c. **Teaching Skills:** Work with them to not only gather data, but help them to question it, verify it and understand it in context. In essence, teach them to read between the lines so they not only know how to scan information but to understand source credibility, context and value of the information (Hershatter & Epstein, 2010).
  - d. **Teach comfort with ambiguity:** Millennials are used to lots of structure. The reality is they cannot be told what to do forever in the workplace. Teach them to follow lines of intellectual inquiry—now that they have this information, what does it mean? Is it credible? Does the speaker/writer have a bias? How does that bias slant the information? Teach them to run through a list of questions to ask themselves as they are gathering data so they can rank data gathered in terms of credibility and only gather that which is credible.

You may be thinking as you read this list of strategies for Millennial management—"Hey, I want that too!". The reality is that all of us benefit from simple and sound management techniques. And that's all these are. What's good for the Millennials, works for us all.

### **What Millennials can do to enter the workforce more successfully**

This paper is not complete without a section on what Millennials themselves might benefit from doing as they enter the workforce. A healthy workplace encourages give and take—not just one or the other. Just as

partners and senior associates need to bend—so too do you as the new generation coming into its own. Here are some recommendations for Millennials as you enter the unfamiliar world of work.

1. **Listen:** You may well have good ideas. Listen first. Get a sense over time (at least a month!) of how things are done, who works on what, how communication happens, and so on. Then, your ideas are based in experience and awareness—not simply off-the-cuff commentary on how you think the world of work should be.
2. **Ask questions:** But not just ‘why?’. Inquire about what is expected in work product, schedule, demeanor, appearance, etc. Don’t just wonder and present negative reactions—be proactive.
  - a. **Why?** These questions inquire about specifics rather than potentially being seen as an affront to authority. You can ask ‘why’ questions later. In the beginning, seek information.
3. **Check your voicemail and email!** Get clear expectations as to how often you are expected to check your voicemail or email. Once a day? Three times a day? How often? And then do it.
  - a. Whether it is *your* preferred mode of communication or not—you are in a service industry. Part of learning is learning to communicate in all modes to provide optimal service to your clients.
  - b. As a team member you have to stay plugged into the team network. And in most offices, that team network is email and voicemail.
4. **Respect:** You want to be respected. So respect others. Observe to see how respect is communicated. Talk to a mentor about how you can communicate sincere respect and appreciation. And then do it.
  - a. **Some ideas:** Don’t text or email while in meetings or conversations. Come into the office when expected and if not, make a call to inform. Make eye contact when being spoken to or when speaking. Don’t roll your eyes. If texted by a colleague, respond to that text using complete words rather than text-speak.
  - b. **Remember context always:** Am I communicating professionally or personally? Professionally is anyone from work or a client or vendor. Personally is your friends and family who are not in your work environment. This rule will save you much grief.
5. **Dress professionally:** Learn what the dress expectations are immediately. Define ‘business casual’. It may mean something very different than you think. You want to be “the new associate” not “that kid in the flip-flops”. You do not have to over-dress. But as a new associate, your job is to impress with awareness, enthusiasm, and willingness to go the extra mile.
6. **Take advantage of mentoring programs:** And if your firm doesn’t offer them, ask for it through your human resources office or the partner to whom you report. It may be through a local Bar Association or Young/New Lawyers groups. This is the fastest way for you to learn the rules (written and, more importantly, unwritten) and understand not only how things work, but how your behavior is being perceived.



- a. **And remember:** The goal of mentoring or coaching is not to shame or belittle you. It is to give you honest feedback tailored to your needs and professional development. Anyone who tries to tell you that their blaming/shaming communication is meant as ‘mentoring’ is someone you do not need to have as a mentor. You may still need to successfully deal with them as a senior member of the firm, but seek your insight and support elsewhere.
7. **Be open to training:** Yes, you are bright and capable. Yet, what common sense and a lot of research tells us is that there are holes in your knowledge, as well as in your awareness. You may benefit from training on professional writing (e.g., memoranda, briefs, motions). You may benefit from trial advocacy training. If offered, take it. If not offered, seek it out and ask for it.
8. **Don’t set yourself up for failure:** Find a firm that fits what you know about yourself. You may not want to commit to 300+ billable hours per month. Do not spring that announcement after you are hired. Look for a good fit beforehand. And if you negotiate a lower number (or have the fortune of being hired by a firm that expects a lower number) do not take that as license to bill fewer hours than that amount. That amount is your baseline, not the ceiling to which you aspire.

Office environments have always been complicated. Multigenerational workplaces, or offices where authority is shared, are even more complex. The expectation that you can browbeat the junior associates into performance has never worked well, and it doesn’t work at all anymore. Likewise, expecting that the firm should simply change because the ways of the Millennial generation are more efficient and simpler is both questionable in accuracy and an absurd fantasy. The solution lies in both senior members and young associates working to establish the sense of teamwork and mutual respect that simply doesn’t come without direct effort.

*Douglas L. Keene, Ph.D. is a psychologist, founder of Keene Trial Consulting, Past-President of the American Society of Trial Consultants, and teaches Advanced Civil Trial Advocacy at the University of Texas School of Law. He assists law firms with trial strategy (including focus groups and mock trials) on major civil litigation and white collar criminal defense, voir dire strategy, jury selection, witness preparation, and related services. His national practice is based in Austin, Texas and you can [visit his website here](#).*

*Rita R. Handrich, Ph.D. joined Keene Trial Consulting in 2000. She is a licensed psychologist with extensive experience as a testifying expert witness and management consultation and training in the multi-generational workplace. In addition to providing trial consulting services through KTC, she is Editor of [The Jury Expert](#). Rita is a frequent contributor to "[The Jury Room](#)" --the Keene Trial Consulting blog.*

## References

Ali, S. (2010). Why no one under 30 answers your voicemail. DiversityInc: <http://www.diversityinc.com/article/7967/Why-No-One-Under-30-Answers-Your-Voicemail/>

Bohl, J. (2008). Generations X and Y in law school: Practical strategies for teaching the “MTV/Google” generation. *Loyola Law Review*, 54, 775-799.

- Deal, J., Altman, D. & Rogelberg, S. (2010). Millennials at Work: What we know and what we need to do (if anything). *Journal of Business and Psychology*, 25, 191-199.
- Dorsey, R. (2010). Inside the mind of a Gen Y employee. *SCM*, 14(2), 7.
- Eiser, B. (2009). Managing the Millennials. Pennsylvania CPA Journal. <http://www.picpa.org/Content/39996.aspx>
- Erickson, T. (2008). Is Gen Y Really All That Narcissistic? *Harvard Business Review Blog Discussions* [http://blogs.hbr.org/erickson/2008/02/is\\_gen\\_y\\_really\\_narcissistic.html](http://blogs.hbr.org/erickson/2008/02/is_gen_y_really_narcissistic.html)
- Fernandez, S. (2009). *Comparing Generation X to Generation Y on Work-Related Beliefs*. Master's thesis: San Jose State University.
- Galinsky, E., Aumann, K. & Bond, J. (2009). Times are changing: Gender and Generation at work and at home. [http://familiesandwork.org/site/research/reports/Times\\_Are\\_Changing.pdf](http://familiesandwork.org/site/research/reports/Times_Are_Changing.pdf)
- Hershatter, A. & Epstein, M. (2010). Millennials and the world of work: An organization and management perspective. *Journal of Business and Psychology*, 25, 211-223.
- Hewlett, S., Sherbin, L., & Sumberg, K. (2009). How Gen Y and boomers will reshape your agenda. *Harvard Business Review*, 87(7/8), 71-76.
- IOMA (2008). How to ensure that your law firm is poised to capitalize on the arrival of Generation Y. *Compensation and Benefits for Law Offices*, August, page 1.
- Keene, D. & Handrich, R. (2010). Tattoos, Technology, Tolerance and TMI: Welcome to the Land of the Millennials (aka Generation Y). *The Jury Expert*, 22(4). <http://www.astcweb.org/public/publication/article.cfm/1/22/4/Tattoos-and-Tolerance-and-Technology-and-TMI>
- Kowske, B., Rasch, R., & Wiley, J. (2010). Millennials' (Lack of) Attitude Problem: An Empirical Examination of Generational Effects on Work Attitudes. *Journal of Business Psychology*, 25, 265-279.
- Kovarik, M. (2008). How to engage gen y. *Inside Supply Management*, 10-12. Cited in Fernandez, S. (2009). *Comparing Generation X to Generation Y on Work-Related Beliefs*. Master's thesis: San Jose State University.
- Meister, J. & Willyerd, K. (2010). Mentoring Millennials: Delivering the feedback Gen Y craves is easier than you think. *Harvard Business Review*, May, 68-72.
- Messmer, M. (2008). Managing the Millennial Generation. *CPA Magazine*, June/July, 27-29.
- Myers, K. & Sadaghiani, K. (2010). Millennials in the Workplace: A Communication Perspective on Millennials' Organizational Relationships and Performance. *Journal of Business Psychology*, 25, 225-238.

Reisenwitz, T. & Iyer, R. (2009). Differences in Generation X and Generation Y: Implications for the organization and marketers. *Marketing Management Journal*, 19(2), 91-103.

Shaikh, P. (2010). Misunderstood Gen Y in the Workplace: Challenges Faced by the Millennial Generation. <http://trainingpd.suite101.com/article.cfm/misunderstood-gen-y-in-the-workplace>

Simons, N. (2010). Leveraging generational work styles to meet business objectives. *Information Management*, January/February.

Staff, J. & Schulenberg, J. (2010). Millennials and the world of work: Experiences in paid work during adolescence. *Journal of Business and Psychology*, 25, 247-255.

The Jury Room (2010). Contempt for Gen Y: It's everywhere—including law firms! <http://keenetrial.com/blog/2010/03/01/contempt-for-gen-y-is-everywhere-including-law-firms/>

Thurman, R. (2010). 36 Facts about Generation Y in the Workplace and Beyond. *Brazen Careerist*, <http://www.brazencareerist.com/2010/07/27/36-facts-about-generation-y-in-the-workplace-and-beyond>

Trunk, P. (2010). The new workforce will job-hop. And that's good. *HVACR Distribution Business*, March. [http://hvacrdistributionbusiness.com/hot\\_topics/new-workforce-job-hop-0310/](http://hvacrdistributionbusiness.com/hot_topics/new-workforce-job-hop-0310/)

Smith, W. (2008). Decoding Generational Differences: Fact, fiction ... or should we just get back to work? Deloitte LLP and its subsidiaries. [http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/us\\_Talent\\_DecodingGenerationalDifferences.pdf](http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/us_Talent_DecodingGenerationalDifferences.pdf)

Weston, M. (2006). Integrating generation perspectives in nursing. *Online Journal of Issues in Nursing*, 11(2), 12-22. [http://www.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableofContents/Volume112006/No2May06/tpc30\\_116073.aspx](http://www.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableofContents/Volume112006/No2May06/tpc30_116073.aspx)

Wood, G. (2006). Recognizing the generational divide: When x meets y at the tribal college. *Tribal College Journal*, 17(4), 24-25.

Citation for this article: *The Jury Expert*, 2010, 22(5), 1-14.

## Editor's Note

As you page through this issue, you'll see content on shadow juries, managing and mentoring Millennials, a review of the iJuror application for the iPad, recommendations on family law disputes, some research on damages presentation, thoughts on communication and gender of attorney, supplemental jury questionnaire items for Arab or Muslim parties in cases, and an interview with the trial consultants involved in the civil rights retrials featured in the new movie *Neshoba*. As always, our goal is to educate and inform and cause you to think. We do that through a combination of articles and a sprinkling of original research and technical pieces aimed at helping you keep up with the latest in trial advocacy and thought. We have two departures from trial advocacy in this issue--the interview elicited by the *Neshoba* movie release and the article on *Managing and Mentoring Millennials*.

We are proud of our history with civil rights and proud of our ASTC members who have worked to bring justice (albeit delayed). We're bringing you this interview with Andy Sheldon and Beth Bonora to show that pride and to highlight the contributions of these consultants. (And to encourage you to see the movie!) The Millennial piece is a follow-up to our piece in the July issue on what we really know about the Millennial generation. There has been a tremendous debate in the online community on the work ethic of the Millennial attorney. We are publishing this review of research on the Millennials at work and offering management/mentoring tactics to firms struggling with welcoming and retaining Millennial attorneys.

Read. Comment. Enjoy. Tell your friends and colleagues about The Jury Expert! And (ta-da!) watch for our very cool and way current web redesign coming at some point during the next month!

[Rita R. Handrich, Ph.D., Editor](#)

On Twitter: [@thejuryexpert](#)



The Jury Expert [ISSN: 1943-2208] is published

bimonthly by the:

**American Society of Trial Consultants**

1941 Greenspring Drive

Timonium, MD 21093

Phone: (410) 560-7949

Fax: (410) 560-2563

<http://www.astcweb.org/>

The Jury Expert logo was designed in 2008 by:

Vince Plunkett of [Persuasium Consulting](#)

## Editors

**Rita R. Handrich, PhD — Editor**  
[rhandrich@keenetrial.com](mailto:rhandrich@keenetrial.com)

**Kevin R. Bouilly, PhD — Associate Editor**  
[krebouilly@persuasionstrategies.com](mailto:krbouilly@persuasionstrategies.com)

**Ralph Mongeluzo, JD--Advertising Editor**  
[ralphmon@msn.com](mailto:ralphmon@msn.com)

The publisher of The Jury Expert is not engaged in rendering legal, accounting, or other professional service. The accuracy of the content of articles included in The Jury Expert is the sole responsibility of the authors, not of the publication. The publisher makes no warranty regarding the accuracy, integrity, or continued validity of the facts, allegations or legal authorities contained in any public record documents provided herein.

