

The Age of the Millennial Juror – Generational Differences in Trying Product Liability Cases

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1. Shift in how plaintiff attorneys have tried product liability cases
 - a. Historically, product liability cases were tried as traditional negligence actions
 - b. Central theme now is to capitalize on public perception of “profits over safety”
 - c. Jury’s attention has been refocused towards consumer safety violations
 - d. Objective is to establish greed and indifference of corporate actors
 - e. Overriding goal is to reorient jury toward endangerment of *society* rather than *individual* plaintiff

2. Jury appeal depends on generation of juror – generations defined and characteristics

	GI	Silent	Boomer	Gen X	Millennial/ Gen Y
Years	1901-1924	1925-1942	1943-1960	1961-1981	1982-2002
Current Age	93-100+	75-92	57-74	36-56	18-35
% of Jury Pool	0%	5%	30%	37%	28%
Characteristics	N/A	Middle class prospered; huge peacetime defense budgets; suburbs born; regulated communications; respected authorities presided over bland, inspirited culture; risk adverse; generation of conformity (greater emphasis placed on rule-followers rather than rule-breakers)	As children, basked in Dr. Spock permissiveness; came of age rebelling against blueprint of parents; gave rise to feminist, environmentalist, black power movements; steep rise in crime and family breakups; arbiters of public morals; high trust in industrial/corporate revolution post-WWII (trust of corporations)	Opened with triumphant optimism but has drifted toward pessimism; grew up in society of overprotection (safety devices); pervasive distrust of institutions and leaders while personal confidence is high (personal responsibility); embrace risk; cynical	Came of age during unprecedented economic growth; sunny idealism and confidence about the future; more trustful of parents and authorities (compliance with standards); more ethnically diverse; idealistic, optimistic and entrepreneurial (personal responsibility); very comfortable with technology

3. All They're Asking for Is a Little Respect

More than anything, Millennial jurors want respect in the courtroom. This comes in many forms. They personally want to be respected as someone who may be ignorant about the facts of the case, but who possesses a fair amount of intelligence otherwise. These jurors also want lawyers to respect their time so organization is key; respect for all players in the trial process is a must. When it comes to respect, give Millennial jurors the benefit of the doubt – they may not do all things right, but they usually do the right thing.

4. Deep pockets or pocketbook?

Despite coming of age during unprecedented economic growth, Millennial jurors have been significantly impacted from the recent economic recession. As such, Millennial jurors may scoff at an attorney's arguments that are premised on the economic impact to a corporation. When it comes to awarding damages against a corporate defendant, some Millennial jurors may feel estranged from corporations and exasperated by their own economic quandary, and, as such, may have the propensity to award excessive damages. On the other hand, some Millennial jurors may take a more empathetic approach given their concern over a corporation who may have to lay off employees, for example, and, therefore, be less inclined to award large damages.

5. Promises, Promises

Because of their very trusting nature, unkept promises to Millennial jurors about what the lawyer will show in his or her case can be particularly devastating (ala betrayal of trust). Always keep in mind the adage that "you should never make a promise you can't keep." Most jurors are unforgiving of lawyers who make promises in their opening statement that they do not follow through on, but this can be acutely problematic for the Millennial juror. Additionally, lawyers must always remember that "perception is reality," that is, it is not the *facts* of a case that are always important but the *perception* of those facts. Millennial jurors will most likely favor the side that provides them with a framework that is commensurate with the "story" that they are most likely to create regarding what the case is about.

6. Educate Before You Advocate

The side that convinces the jury that its interpretation of the facts in the case is the most reasonable will prevail. It is paramount that lawyers *teach* before they *argue*. A crucial part of this revolves around the expert testimony. When selecting and preparing expert witnesses, the best experts have the same engaging qualities of a favorite teacher. Eschew obfuscation . . . in other words, say it simply. Technical prowess and/or proficiency don't necessarily sell well with Millennial jurors.

7. If They Only Need to Know the Time, Don't Teach Them to Build a Watch

Jurors are bombarded with information that is unfamiliar to them during trials. All the details of a case need to be connected into a cohesive story for the jurors to reach the conclusion desired. Any lapses in the connections between these details will be filled in by the jurors based upon their own biases and experiences. No lawyer wants this “misinformation” guiding the jurors’ decisions. Jurors not only need the “roadmap” where they are going but need the “compass” as well. Likewise, with respect to any visuals, the goal is to *communicate* not *decorate*.

Not surprisingly, Millennial jurors have been impacted by technology in extraordinary ways, particularly the social media revolution. Unlike previous generations, Millennial jurors have grown up with the internet as an integral part of their childhood fabric. Their connection to technology from the very beginning of their lives has precipitated undeniable jury-relevant characteristics being more prevalent in Millennials as compared to other generations. For example, Millennials are used to seeing sophisticated graphics on televisions, computer screens, and their hand-held devices. Consequently, they are more likely to expect high-tech, sophisticated graphics in the courtroom. Millennial jurors are unlikely to perceive an inequity between litigants that gives one side an unfair advantage simply because they are utilizing “slick” graphics. In fact, many Millennials begrudge lawyers who inundate them with a presentation of evidence that is not visually compelling so they can understand and retain important information that is being presented.

8. Millennial Jurors Have Great Expectations for Drama

As discussed previously, technology has created great expectations in jurors for drama during the trial. Millennial jurors do not simply absorb and process information passively, but rather they actively obtain information through interacting with technology. Because of the recent and fast-paced advancements in technology, Millennial jurors have grown up having instantaneous access to unlimited information. Not surprisingly, a practical and beneficial presentation technique for lawyers that appeals to Millennial jurors is for the attorney to present case-related information by actively manipulating their demonstratives and graphics in a real-time, interactive fashion.

One area in which this expectation for drama is most acute for Millennial jurors occurs during cross-examination of corporate executives. Because of their vast experiences with technology, Millennial jurors believe corporate executives readily have access to all important information about his or her company. As compared to other generations, Millennial jurors expect corporate executives to know practically every detail about their company and the products it produces. Respectively, testimony by a corporate executive that “I don’t recall” or “I don’t remember” important information regarding the dispute in question is often met with a healthy dose of skepticism and disdain by Millennial jurors.

9. You Can Lead a Horse to Water but You Can't Make Him Drink

Jurors need to walk before they run . . . educating jurors about the basis for one's conclusions will enhance the possibility of jurors agreeing with the conclusions. Often the subject of much debate, it has been suggested that Millennials were raised by more indulgent "helicopter" parents than children in previous generations, and, as such, have developed an "entitlement" mentality. These Baby Boomer parents were known to closely monitor their children to such an extent that they attempted to solve any problems their children confronted themselves. As part of this phenomena, aggressive and competitive play was discouraged and team-oriented activities became the norm; objectively, no one was a loser and everyone was a winner.

10. If the Glove Don't Fit, You Must Acquit

Because Millennial jurors yearn for instantaneous gratification, trial attorneys must appeal to these jurors with concise and succinct themes. Respectively, Millennial jurors have little patience with attorneys who flounder and are not facile using technology in the courtroom. Due to their generational influences, Millennial jurors respond well to case themes in product liability cases that emphasize adherence to rules, cooperation, and respect. Moreover, Millennial jurors gravitate toward being team players, which makes them particularly adept at consensus building during deliberations.