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Amicus Curious

The new jury math: $X + Y =$ big change

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The combined size of Generation X and Generation Y, according to trial lawyer Jeffrey J. Kroll, will soon be “as big and powerful as the original baby boomers.”

By next year, Kroll calculates, this group will make up 45 percent of the jury pool. And because the development is significant to trial lawyers, he delivers speeches on this theme around the country.

For example, Kroll listed qualities of jurors who come from the Gen X and Gen Y cohorts in a speech he gave in January. He says they are:

- Computer literate.
- Inclined to communicate by e-mail or texting.
- Very visual.
- Receptive to short sound bites.
- Distrustful of previous generations.
- Part of the MTV generation;
- Lacking respect for institutions, such as marriage and courts.

The themes are not new, and Kroll concedes in his speech that his listeners “may be saying to yourself, ‘So what?’”

In response, he gives examples from experience.

Because they communicate constantly by e-mail and cell-phone texting, he says, “They are itching to get to it. They want to cram as much business as they can into a recess.

“You see them out in the hallway. You see them as soon as they walk out of the courtroom. They are distracted.

“If they’re so overloaded with information they can barely focus on their own personal life, what are they going to do with some guy they don’t even want to be there for?”

Moreover, Gen Y jurors have been using digital media “since birth,” Kroll says, and have played fast game machines such as Xbox at home “from day one.”

As a result, he insists, “The time has come to embrace technology. Like it or not, ‘CSI’ [the TV show] solves complex cases in 48 minutes. Jurors expect the same quick results.”

To hammer home his tech message, he adds, “Studies have shown that jurors remember only 20 percent of what they hear and almost 80 percent of what they see.”



Marina Makropoulos

Jeffrey J. Kroll

Kroll cites as support for this statement an article in the Michigan Bar Journal from March 2001.

According to the article, entitled “The Creative Side of Law,” “Jury research shows the average person holds a 17-minute attention span.”

Kroll takes this seriously, too.

In a trial last month involving a slip-and-fall at Chicago’s Ogilvie Transportation Center, in which Kroll was the plaintiff lawyer, “the longest direct examination of a treating physician was 18 minutes,” he said.

“You don’t waste time on their background,” Kroll said. “Now instead of going through 50 articles the doctor wrote, you say, ‘You’ve written approximately 50 articles. How many deal with lower extremities?’”

In contrast, when he started out as a trial lawyer 18 years ago, Kroll said, lawyers assumed that the rule for presentation of a good plaintiff witness was “the longer the better.”

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Kroll also said there is a solid foundation for the mistrust that Gen X and Gen Y jurors have for their elders and institutions.

“Your juries have seen nearly every institution from corporate America to the presidency called into question,” he said, adding that they have lived through the Enron scandal and the like.

They are cynical about the courts because they are well aware of the O.J. Simpson murder acquittal and the 1992 case in which a woman was awarded almost \$3 million for spilling coffee from McDonald’s in her lap.

Further, “[the high rate of] divorce weakens respect for marriage,” Kroll contends. “And that especially comes into play when you have a wrongful death of a spouse.”

A juror who was raised in a broken home, he said, may think, “I lost my dad at an early age, and I didn’t get anything out of it. Why should we turn this particular family into millionaires?”

As an explanation for where he got this information, he added, “I do focus groups for trials. I’ve done three this year for three different cases.”

To hire focus groups, he uses the market research firm of Leo J. Shapiro & Associates.

Because of the qualities of distrust and cynicism in Gen X and Gen Y jurors, Kroll argues in his speeches to lawyers that, “To the new juror, seeing is believing.”

Also, “remember, we must take into account a juror’s view of the world, not your own view.”

One reason for the last assertion, he said, is that the new jurors “feel their opinions are as good as any newsmaker’s. They’ve got their own blogs, Facebook, MySpace, their way of disseminating their beliefs to everyone else.”

His most recent speech was on Jan. 3 to the National CLE Conference, in Vail, Colo., entitled, “One Tale at a Time: Has Technology Changed Story Telling?”

Kroll, 45, said he has delivered versions of this speech and has spoken on other legal themes 114 times in 23 states.

“I love doing it,” he enthused. “We as trial lawyers love the stage at times, and it also keeps you fresh and keeps you on your toes, and it’s a great place to try different ideas before trial, like a big focus group,” because it offers the opportunity to talk to the lawyers afterward.

Kroll was with Clifford Law Offices for 17 years, and the plaintiffs in his recent injury case at Ogilvie Transportation Center were additionally represented by Clifford Law Offices.

Kroll left the Clifford shop in August 2007 and started his own firm, the Law Offices of Jeffrey J. Kroll, which has two associates.

In the recent slip-and-fall case, a jury awarded nearly \$1.2 million to a bond trader for a shattered kneecap.