

## How to Be Hundo P and on Fleek

By Stephen P. Laitinen  
and Merrie Jo Pitera

**M**illennials—the generation born between roughly 1981 and 2001—are showing up in large numbers to perform their civic duty. Millennials are clearly ready for jury duty. But are you ready for them? Could a millennial really become a jury foreperson in your trial? And will it matter?

# The Millennial Factor in Jury Selection

On any given day, in courtrooms across the country, trial lawyers may look out on a prospective jury panel and see no less than four generations sitting in the jury box: the Silent Generation, baby boomers, Generation X, and

Generation Y, also known as millennials. Anecdotally, in recent years the commonly heard refrain from battle-tested defense lawyers was to remove the token millennial from a jury panel automatically because it was believed that millennials typically were “pro-plaintiff” jurors. For the purposes of this article, we will set aside for another day the debate over whether millennial jurors are “pro-plaintiff” or something else entirely.

This article will examine, however, what is quickly becoming a reality in trial practice: millennials no longer represent the one or two “token” jurors that can be easily removed from a prospective jury panel. Why? Well, because there are too many of them! Demographically, millennials, who now comprise the largest generational group in the United States, are turning up in ever-increasing numbers in jury pools. Author Laitinen reports that in a

recent state court jury trial, two of the eight empaneled jurors were millennials. Author Pitera reports that this year alone, she has participated in several trials in which the post-hardship jury pool was comprised of millennial jurors by nearly 50 percent or more. Equally important, in two very recent trials, a millennial actually served as the foreperson. Because of these inescapable trends, millennials who serve as jurors will exert considerable influence in the trials of the future.

To begin our discussion, we will examine the four prominent generations that exist today in American jury pools. We will analyze the generational differences that exist among the Silent Generation, the baby boomers, Generation X, and millennials. We will try to see what makes each generation “tick,” so to speak. We will then specifically focus on millennials and provide some insight into how we, as defense law-



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“Hundo p” means “one hundred percent” in the lingo of millennials. For example, the millennial that uses the phrase “hundo p” is giving a big thumbs up to whatever is being discussed.

Being “on fleek” means, in millennial-ese, “to be on point.” In the business world, “on fleek” means that the task at hand was performed well and is worthy of praise.

yers, can best approach this enigmatic and increasingly influential generation during the jury selection process and throughout a trial.

## The Generations

Generations tend to be defined by major happenings—be they wars, news events, political scandals, or tragedies, great and small. Each generation has at least two or three tremendously influential events that happened during its members’ formative years. When they are asked where they were during those events, they more than likely will remember the events in astonishing detail. Those of the baby boomer generation, for instance, have the assassination trifecta of JFK, Dr. Martin Luther King, Jr., and RFK burned into their collective minds; for Gen X, it may have been the Challenger explosion (we certainly remember exactly where we were when that happened); and for millennials, the epic tragedy of 9/11, and then the sobering realities of the Great Recession of the late 2000s come to mind. These significant generational events tend sharply to define the perceptions of the people who were the most strongly influenced by them. And as we all know, perceptions can anchor the reality of someone’s existence.

These shared experiences, of course, help shape the belief systems of the people within a certain generation. These varying beliefs can then affect how jurors evaluate your case. So when you are faced with three or more generations in your jury box, each with widely divergent perspectives and attitudes, it is crucial to understand how to frame your case properly to connect the best with all of them, at some level.

Please take note, dear readers: there is no hard and fast consensus on when a

particular generation “ends” and when another generation “begins.” Scholars differ in this regard, and there has always been some degree of fluidity to the analytical framework. The authors instead will use “ballpark” numbers that generally find broad support (or perhaps less argument) among those who, by profession, actually study generations and their trends.

## Who Are Silent Generation Members?

**Other Generational Names:** the forgotten generation, the lucky few, radio babies.

**Birth Years:** 1925–1945.

**Age Range:** 72–92.

**Population:** 28 million.

**Famous People:** Dick Cheney, Madeleine Albright, Joe Biden, Gloria Steinem, Mary Tyler Moore.

**Influencers:** the Great Depression, World War II, the McCarthy Era, the Korean War.

## Silent Generation—Generational Synopsis

Did you know that the Silent Generation did not produce a U.S. president? During the post-G.I. generation era, members of the Silent Generation were urged to follow social norms and avoid social or political activism. Most individuals in this generation grew up among hard times, followed by a time of great prosperity, after World War II. People in this generation espoused conservatism and traditional family values. Due to the financial insecurity of the country in the 1930s to early 1940s, parents of the Silent Generation typically had fewer children, which means that this generation, compared to others, is relatively small. The Silent Generation members typically are avid readers, especially newspapers. Ninety-nine percent of the members of this group are now retired. Patriotism, discipline, loyalty, and a strong work ethic are also hallmarks of the members of this generation.

## Who Are Baby Boomers?

**Other Generational Names:** generation Jones, the “me” generation, the credit card generation.

**Birth Years:** 1946–1964.

**Age Range:** 53–71.

**Population:** 77 million.

**Famous People:** Oprah Winfrey, Bill Gates, Steve Jobs, Meryl Streep, Madonna.

**Influencers:** the Cold War, the Civil Rights Movement, the assassinations of JFK, Dr. Martin Luther King, Jr., and RFK, the walk on the moon, the Vietnam War, Watergate, and the Nixon resignation.

## Baby Boomers—Generational Synopsis

Did you know that baby boomers currently control over 75 percent of the personal

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financial assets and account for more than 50 percent of all consumer spending in the United States? Approximately 60 percent of baby boomers believe that it is important for each generation to earn its own money. There have been three U.S. presidents from this generation: George W. Bush, Bill Clinton, and Donald Trump.

Baby boomers were really the first TV generation. This generation also owns the highest divorce rate and numbers of second marriages in history. Baby boomers grew up in an era of sexual freedom, drug experimentation, political unrest, and vibrant feminism. Many baby boomers initially adopted anti-establishment attitudes and a healthy mistrust of the government as they grew up. Ironically, this early cynicism about institutions has come full circle for some baby boomers.

Later on, of course, many baby boomers were the first eager members of society to participate in what became the first

consumer economy and the “buy now, pay later” mentality. Today, because of their generally perceived preeminent wealth and status, whether the view is accurate or not, baby boomers are viewed by other generations as arrogant, ambitious, greedy, and materialistic.

Internally, baby boomers traditionally place strong value on their careers and

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public recognition of accomplishment. In addition, over the years, baby boomers have tended to be very loyal to their employers. It is not uncommon to see many baby boomers who have worked for the same employer for their entire lives. In return, employers generally would repay that loyalty, offering reasonable pensions to baby boomers and avoiding layoffs. Today, however, because of the recent Great Recession and other financial collapses, many baby boomers have now been laid off, either at, or very near, their retirement ages. The resulting sense of betrayal has created feelings of tremendous bitterness in baby boomers toward various companies and a particular distrust of politicians, financial institutions, and their dubious ethics.

Along that same vein, partly because of the political dramas of the 1960s and

1970s, many baby boomers have now come full circle and are now openly skeptical of the government, and this distrust has only been exacerbated as they reached retirement age. Many baby boomers who are less economically prosperous than other members of their generation now worry that the government will not fulfill its promises to them regarding Social Security and health insurance, mostly, Medicare. Between the layoffs and the state of these government programs, many baby boomers have greater anxieties about money than other generations.

The baby boomer generation tends to be less tech savvy and have less of an online presence than either Generation X or the millennial generation because, unlike those younger generations, baby boomers did not grow up with that technology. It is less familiar and intuitive for them. In fact, certain baby boomers, while not Luddites, per se, can still be openly dismissive of social media, for those same reasons.

#### Who Are Generation Xers?

**Other Generational Names:** Gen X, baby busters, the Xers, the latch-key generation.

**Birth Years:** 1965–1980.

**Age Range:** 37–52.

**Population:** 65 million.

**Famous People:** Barack and Michelle Obama, Kurt Cobain, Jennifer Aniston, Tina Fey, Elon Musk.

**Influencers:** the energy crises, AIDS, Chernobyl, the Space Shuttle Challenger disaster, the dot-com bust.

#### Generation X—Generational Synopsis

Did you know that many Generation X members occupy an entirely unique strata in our society because they were raised in the transitional era, where knowledge based on the written page morphed into knowledge stored by digital means? Most Gen Xers remember starting school without computers but ending school during a time when computers were prominent features of learning.

Some Gen Xers were the first members of a generation to make the transition from vinyl records to CDs, and from VHS tapes to DVDs. Many among this generation also grew up with TV as a “baby-sitter.” Due to the need in the 1980s for families to create dual incomes to survive

financially, mothers were entering the work force in greater numbers than in the past. This meant that when many Generation X children would get out of school at 3 p.m., they would have to be independent enough to get home by themselves, get into the house, and then fix a snack and entertain themselves while they waited for Mom or Dad to get home. As the first generation of latch-key children, however, members of Generation X often have a strong sense of personal responsibility and self-reliance, well-honed during their formative years.

We may tend to forget today that Generation Xers were the first generation to grow up without institutionalized segregation. Generation Xers, as a result, typically embrace societal tolerance and ethnic diversity, perhaps better than the generations that preceded them. Members of Generation X will be the first generation that may not do as well as their parents did, on the whole, financially. As a result, Gen Xers were really the first generation to question work-life balance issues openly. This trend, of course, would be developed even more robustly by the children of Generation X—the millennials.

Gen Xers can be cynical since they definitely lived through their share of scandals, first-hand—in the religious (Jimmy Swaggart), the political (Clinton–Lewinsky), and the business (Wall Street) realms. The fact that Generation X members personally observed these scandals has led some to possess a healthy dose of cynicism toward corporations (and thus, most defendants, as a result). Similar to baby boomers, but perhaps for different reasons, many members of Generation X harbor a vaguely defined distrust of authority, corporate America, organized religion, and the government.

Because successful Generation Xers often feel that they have made their own way through the world, they also have respect for the “almighty dollar,” which does mean something to them. Although members of Generation X may be cautious about giving large damage awards, they will provide them if they believe that there are valid, justifiable reasons for doing so.

Finally, unlike baby boomers, members of Generation X have tended to do a lot of job-hopping, sometimes making six or

seven career changes in one lifetime and not having, without any particular loyalty to, or resounding positivity toward, any one company or corporate culture.

### So Let's Talk Turkey—Who Are Millennials, Anyway?

**Other Generational Names:** Generation Y, echo boomers, 24/7s, Generation Next.

**Birth Years:** 1981–2001.

**Age Range:** 16–36.

**Population:** 83 million.

**Famous People:** Mark Zuckerberg, Beyoncé, Kim Kardashian-West, Mohammed bin Salman, Kim Jong-Un.

**Influencers:** Digital media, 9/11 and related terrorist attacks, AIDS, numerous school shootings, the Zika virus.

### Millennials—Generational Synopsis

Did you know that only 19 percent of millennials agreed with the statement, “most people can be trusted”? This compares to 31 percent of Gen Xers, 37 percent of the Silent Generation, and 40 percent of baby boomers. See Pew Research Center (Mar. 7, 2014). Over 60 percent of millennials have a college degree. Currently, there are 40-million millennials in the workplace, and by 2025, three out of every four workers globally will be millennials.

There are now roughly 83 million members of the millennial generation, a number that surpasses that of the second-largest group, the baby boomers (at roughly 77 million). Millennials are populating our jury pools in growing proportions, so it is vital that we consider the mindset that they bring to their role as jurors.

This generation tends to be more liberal and more progressive than previous generations. They are also more racially diverse. As of 2015, over 44 percent of millennials identified as ethnic minorities. U.S. Census Bureau (June 25, 2015). But at the same time, they are less likely to have experienced explicit racial discrimination than previous generations. For millennials, racial and gender bias has not disappeared, but they have taken different forms than in the past (e.g., implicit bias, shades of skin color within the same racial groups). In terms of politics, they are more focused on social issues—ironically—think Bernie Sanders, who himself is a member of the Silent Generation.

Regarding their corporate attitudes, many millennials believe that businesses should make a profit, but also have a responsibility to serve the public. This is a generation that places a lot of weight on the community service that an organization participates in. But millennials also feel that work needs to be balanced with other aspects of life. As a result, community service and work-life balance are more important to this generation than pay or title. In other words, millennials may sacrifice status as long as they are “making a difference” in their jobs. Many millennials also do not see the value of “paying their dues” when securing a job. Instead, members of this generation tend to hold entitlement attitudes. For instance, they expect to move laterally into a job, rather than work their way up the ladder, which is a mindset that is 180 degrees in contrast to the mindset of the Silent Generation, or baby boomers, for example.

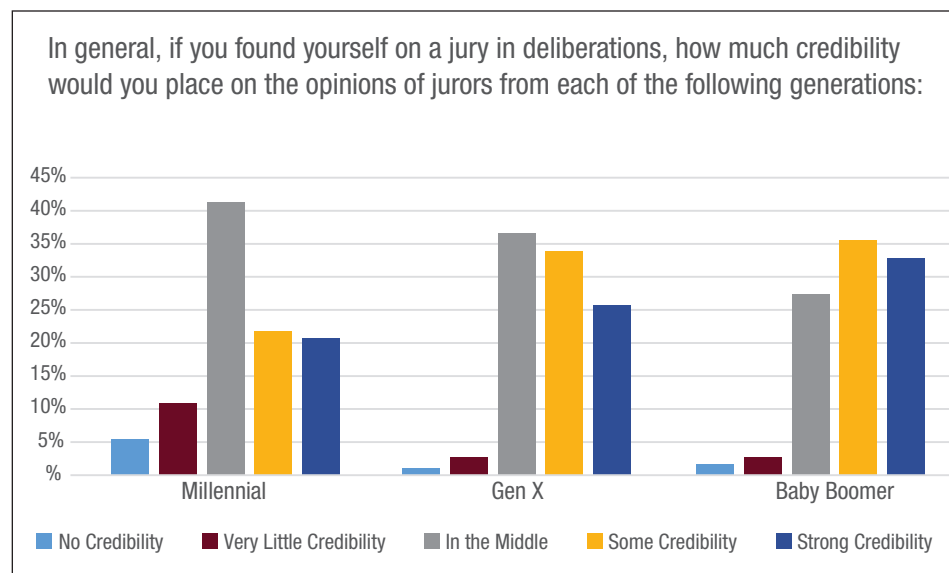
As part of their development, many millennials have been taught to work in group settings. Team building is a hallmark of this generation. It makes sense, then, for millennials to be able to manage the task of organizing discussion, but also the arduous task of managing the different generations in the jury room—from the boomers to the Gen Xers. They have been working in team-building environments their entire lives,

so it is only natural that we are starting to see millennials who are comfortable in the foreperson role. In fact, the preliminary result of a national survey of mock jurors demonstrates that 68 percent of millennials agree that they work best in groups. (This survey of jury-eligible participants is being conducted by Litigation Insights, Inc. and is currently ongoing.) Nevertheless, the same mock juror sample was asked how much credibility they would assign to millennials in deliberations. Although overall jurors believed that they would place import on millennial opinions, they still, in comparison, placed greater weight on Gen X and especially baby boomer arguments while remaining mostly on the fence about the weight of a millennial in deliberations. See Table 1.

Millennials grew up in the digital, multimedia age. They grew up with ready access to modern communication technology (e.g., internet, text messaging, and smartphones). They tend to be very tech savvy and effective at multitasking, particularly with internet and mobile technology. They are impatient. Millennials enjoy a networked world and having information at their fingertips 24/7. They value sharing intellectual property differently than other generations, believing that it should be freely disseminated (e.g., Napster, Facebook, YouTube).

**Millennials**, continued on page 84

Table 1





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## Millennials, from page 51

Because this generation tended to grow up receiving more praise, such as receiving trophies for participating in activities, they are not necessarily accustomed to being criticized. Therefore, some millennials don't take well to being told what to do and generally dislike authority figures.

### How to Communicate with Millennials

While some of the following tips can certainly apply to other generations, for the purposes of this article, they are tailored toward the unique characteristics of millennials.

### Don't Be Afraid to Have Them on Your Jury

During jury selection, don't jump at the chance to disqualify millennials. With their team-oriented focus, many millennials are great at avoiding conflict and building consensus. They can be a mediating voice during deliberations. You may find this to be a quality worth having rather than striking, depending on the case.

### Teach, Don't Tell

Because millennials tend to value knowledge, conducting a "101" on the more complex facets of your case is usually recommended. If they feel knowledgeable about the subject matter, they will feel more empowered to make a decision. Since they are not generally receptive to authority, however, it is important not to tell millennials what to believe, but rather, give them the tools to become "experts in the case" and to feel as if they've arrived at their own conclusions.

### Trim Down Your Themes

Many people these days—and especially millennials—have notoriously short attention spans, so narrowing your key themes is a must. Having too many themes limits the persuasive power of each one. Also, once you have your themes, be sure to repeat them multiple times throughout your case to make sure that they stick in jurors' minds. Mock trial research can help you to determine which themes most strongly resonate with jurors and will allow you to choose carefully which themes will most likely create your desired outcome.

## Leverage Multimedia Presentations

Counsel need no longer worry about looking too slick. We are in an era in which most jurors, of any generation, fully expect technology to be used. So with millennials, many of which don't even know a time before personal computers, cell phones, and the internet, you'll definitely need to emphasize the technology. Millennials are accustomed to image-heavy media, multisensory input, and entertainment, and the best way to communicate with them is to match these expectations. Display too many exhibits on an ELMO, and younger jurors can easily become bored and frustrated. However, choose your technology carefully, depending on who is on your jury panel because members of the baby boomer generation are "wowed" by the use of technology, whereas Generation X and millennial jurors expect it.

- Focus on how to tell your story and represent your themes visually. Use image-based analogies here and there to make the content more relatable and interesting.
- Get jurors' attention right away in opening statements. As allowed, use pictures, graphs, maps, and videos to support your initial presentation.
- Turn your experts into teachers by having them use graphics and demonstratives. Giving them a chance to get out of the witness chair is always a good strategy to keep things interesting. A graphics team can work with your experts directly to interpret their data and produce exhibits that showcase their findings and opinions.
- Use animation to spice up your PowerPoint slides. Millennials would rather see a document callout "pop up" from your timeline as you discuss an important date, as long as it has substance. This interactivity further involves jurors and greatly increases the imprint value of these exhibits.

## Conclusion

What will your next juror panel look like? Will your millennial jurors drive juror deliberations? If so, here's hoping that your next trial is *hundo p* and *on fleek*. Good luck!

