

# Demographics In Civil Trials: Biases And Implications

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## ABSTRACT

*This paper investigates the implications of the demographics of jury members and its influence on their findings. A written civil case where the defendant was at fault but the damage and injury claims were equally believable on both sides was presented to a random group of potential jurors. A survey instrument collected selected demographic information from participants and asked how they would rule as to injury and damage awards were they jurors in the case. The sample was then analyzed as to the difference in their finding of fault and award recommendation based on the jurors' selected demographic characteristics. Findings indicate that a juror's recommendation regarding medical expense award and business damage award is not independent of gender and race.*

**Keywords:** Jury Demographics, Jury Selection, Juror Characteristics, Juror Race, Juror Ethnicity, Juror sex, Juror Gender, Juror Bias, Civil Court Decisions

## INTRODUCTION

*T*rials are much too important to be decided by juries.” This tagline for the 2003 film *Runaway Jury* emphasizes how important the right jury is to the outcome of a civil trial. In the movie, actor Gene Hackman plays a jury selection expert with the job of selecting the jury to assure a win for the gun-industry defendant.

Attorneys go to great effort to pick the “right” jury, as each side seeks to seat jurors it believes will favor its side and will more readily accept its evidence, explanation and claims to be true. Attorneys question potential jurors about their beliefs, lifestyles, and experiences to discover potential biases. Many also apply their own concepts of the possible relationship of jurors' demographic characteristics to juror decision making in seating acceptable ones. The purpose of this paper is to investigate if jury demographics can make a difference in civil rulings and court decisions. The study entailed presenting a written case concerning an automobile accident to 400 people of very diverse backgrounds. After receiving specific oral instructions respondents read the case and completed a survey instrument. The survey asked respondents to identify certain of their demographic characteristics and how they would have decided or voted with respect to damage awards were they a member of the jury in the case. We then analyzed the data for differences by respondent characteristics. The paper is organized as follows: the first section summarizes findings from criminal and civil jury literature about the relationship between jury demographics and verdicts; the second describes the case presented to participants; the third presents the findings of the research; and the fourth summarizes and discusses implications of the findings.

## EVIDENCE FROM LITERATURE

In criminal trials, jury selection is the most important part of the trial (Faringer 1980). The process of *voir dire* enables attorneys to gather information so they can make informed judgments about jurors and their biases. The attorneys' goal is to seat jurors they believe will produce results desired. Attorneys generally believe that demographic, cognitive, and behavioral characteristics of jurors will influence their deliberations, judgments, and the ultimate verdict (pp 120-121). Turner (1996) reviews the conceptual foundations for these beliefs and cites a number of studies in support including Krieger (1995), Kennedy (1994), Pennington and Hastie (1991) and Ugwuegbu (1973), among others.

Attorneys often use checklists that catalog relevant topics of inquiry to help them make enlightened selections. Such checklists usually include questions related to family status and children, home ownership, occupation, education, military or law enforcement service, experience with the justice system, media consumption habits, organizational affiliation and the like (pp.123-128). See also Ginger (1979), Kennelly(1965), Schulman (1973), and Bonora and Krauss (1979) for similar checklists and guides.

A substantial body of literature presents mixed evidence of the effects of juror's demographic characteristics on trial outcomes. Visher (1987), citing works by Hans and Vidmar (1982), Hastie, Penrod et al. (1983), and Hepburn (1980) point out that while juror demographic characteristics-- age, gender, race, occupation--are statistically related to jurors' judgments of the defendant, they are not strong enough to predict verdicts (p.3). Visher's 1987 study of 331 jurors in 38 sexual assault trials revealed that jurors' demographics-- age, race and sex-- seem unrelated to judgments of defendant guilt; psychographic variables, however, such as juror beliefs in the need for harsher sentences and stricter laws increased the likelihood of guilty verdicts.

Golding and co-authors (Golding, Bradshaw et al. 2007) show gender composition affects deliberations and may affect jury level decision-making processes in child abuse cases and that gender affects perceptions of elder abuse (Golding, Yozwiak et al. 2005). Higgins and Heath (2007) report that mock juror age affects verdicts and sentences in cases where the excuse defense was highly self-inflicted. In criminal cases where the insanity defense may apply, Breheney *et al* ( 2007) show juror gender may make a difference in verdict, although the dynamics of gender effects needs further research.

King's (1991), review cites a number of studies that show racial composition of juries changes verdicts, including those by Alschuler ( 1989), Johnson (1985), Underwood (1992), Miller (1978), Ugwuegbu (1979), Mills (1980), and Lipton (1983). Collectively, these studies show that the extent to which race impacts the verdict depends on a number of factors including, defendant's and victim's race, strength of evidence, case attributes (*e.g.*, racially charged issues, black versus white parties, rights-active parties, attorneys' race, indictments and sentences),and jury racial heterogeneity. Taylor-Thompson (2000) likewise presents evidence and arguments that race and gender impact jury deliberations and can materially affect outcomes in both criminal and civil trials.

There are differences in the jury selection for criminal cases and civil cases. Jurors historically have vast freedom in the process for assessing damages and establishing compensation in civil trials (Greene 1989). Jurors' competence, predispositions, and biases are therefore at issue in *voir dire*. The competence issue may arise under the rubric of "juror effectiveness." Assessing effectiveness involves evaluating jury outcomes against some standard of reasonableness and studying how jurors react to information they are given to reach a decision (Pendell 1989). Concern for juror effectiveness led one federal judge, with consent of all parties, to experiment with selecting jurors on the basis of educational background (p.319). Several writers have addressed the jury competence issue, including Kalven and Zeisel (1966), Kalven (1964), Visher (1987), Kadish and Kadish (1971), Schefflin and Van Dyke (1980), Williams (1963) and Greene (1983). Visher (1987) posits the most serious criticism of the jury system is that jurors are not competent to impartially consider evidence and decide issues of fact. As Greene humorously comments," the intellectual incompetence of the civil jury has been vastly exaggerated" (Greene, p. 228).

Implicit in the jury selection process is the assumption that demographic variables, such as ethnicity, national origin, affluence, gender, occupation, urbanization, education and social standing along with jurors' psychographic and attitudinal characteristics influence verdicts. Empirical evidence that jurors' demographic characteristics explain or account for trial outcomes appears mixed.

Changing demographics as "Gen-X"( born between 1965 and 1977) and "Gen- Y" (born after 1977) become members of the venire panel and bring different values, lifestyles and experiences to the jury room merit careful consideration in many civil cases, particularly those related to gender (Baker 2004). Eisenberg and Wells (2002), identify a number of popular beliefs that attorneys presumably hold about the relationship between jury demographics and performance.

Conventional wisdom among attorneys takes two paths. One path is that counties, the usual geo-political level where jury selection occurs, have liberal or conservative predispositions that favor or oppose awards to plaintiffs. The

second path is that jurors’ personal and demographic characteristics influence case outcomes. While attorneys may rely on these two stereotype views, research in support is inconclusive (p.1843). Eisenberg and Wells’ overall conclusion is that there is only modest support for the general ability of demographic variables to explain case outcomes. An earlier study by Bornstein and Rajki (1994) reports that on the whole, behavioral variables such as attitude and personality, are stronger predictors of verdicts than demographics (p.130).

Commenting on Eisenberg and Wells(2000), Saks (2002) posits that demographics has little to do with the outcome of civil trials, and is skeptical of whether they were addressing whether a particular *community* has an idiosyncratic predisposition toward generous awards to plaintiffs or the question of whether particular *demographic groups* have a like predisposition. If the question is the latter, he argues research offers little support, despite attorney belief to the contrary (p.1881). Hastie *et al* (1998) for example, found individual differences in jurors’ gender, age, education, income and ethnicity were only weakly related to their verdicts. Citing Diamond *et al* (1998) and Wissler *et al* (1999), Saks suggests that the effects of demographics on damage awards were likely minimal (p. 1881). With regard to pain and suffering, income had a statistically significant but small positive effect and gender had a substantial positive effect, with men awarding more.

A mock jury study by Bothwell *et al* (2006) found racial bias in damage awards but concluded that subtle racial biases operating at the subconscious level probably get washed out in the deliberation process as juries come to agreement on the appropriate award. Examining social status of jurors to update earlier jury studies that found white upper class men dominate jury deliberations, York and Cromwell (2006) found that *upper class* jurors alone--not men, not whites--have more influence on deliberations. They conclude that statistical representation of demographic groups in the jury pool does not guarantee that diverse views will affect verdicts.

In medical-malpractice and product-liability verdicts Rose and Vidmar (2002) found no difference in awards associated with juror demographics. In a study of large damage cases, Vinson *et al* (2008) found demographics predicted verdict and award only modestly. In selecting civil juries, Higgins (1998) offers this summary conclusion: “Ask and ye shall predict; good questions beat (demographic) stereotypes when choosing jurors.” While good questions and behavioral analysis help choosing jurors, the “jury” is still out regarding demographics.

**RESEARCH HYPOTHESES**

These findings from the literature reviewed in the previous section are the basis for the eighteen research hypotheses (six variables and three award recommendations) enumerated in this section. Table 1 summarizes the research hypotheses, stated in the null form, e.g., “recommended award for vehicle damage of any amount is *not* independent of gender.” Each cell in the table indicates a null hypothesis of non- independence (NI) between the variable and the characteristic of interest.

**Table 1: Matrix of Research Hypotheses**

Demographic Variable	Recommended Award		
	Vehicle Damage	Medical Expenses	Business Damage
Gender	NI	NI	NI
Ethnicity	NI	NI	NI
Family Income	NI	NI	NI
Age	NI	NI	NI
Education	NI	NI	NI
Civil Suit Experience	NI	NI	NI

**THE CASE STUDY**

To test these hypotheses, we presented a written civil case to a random sample of 500 potential jurors. The case concerned an automobile accident. In the case the defendant was clearly at fault for the accident, but the injury, damages and loss were very controversial and at issue. For this case study, each side had expert witnesses (medical doctors and economists) whose testimony supported its position. Directions instructed study participants to read the case as if they

were members of this jury and to indicate what amount of award, if any, would be fair. The award was broken down into vehicle damages, medical expenses and lost business income (business damages). The defendant rear-ended the plaintiff with damage to the plaintiff’s large old van (\$2,000) and moderate damage to the defendant’s expensive foreign sports car (\$9,000). The plaintiff claimed to have suffered back and neck injuries in the automobile accident. He alleged that because of his injuries and pain he could not adequately manage his newly formed manufacturing business, having undergone major surgery to fuse two disks. His medical doctor testified that the plaintiff’s injuries and pain were most likely the primary result of the subject motor vehicle accident. The plaintiff’s medical bills amounted to \$68,000.

The defendant’s medical doctor testified that the plaintiff’s medical condition was the result of a preexisting injury received five years earlier. This doctor’s opinion was that the surgery would have been most likely required even without this automobile accident. The plaintiff’s economic expert presented a thorough analysis that indicated the plaintiff’s start-up business most likely would have been very successful had the plaintiff not been involved in his accident, and estimated that the business suffered damages of \$250,000. The economist alleged that these damages were the direct result of the plaintiff not being able to personally manage the business and this business’s opportunity to succeed was dependent on the plaintiff’s direct participation and management. The senior sales manager of the subject business testified that it lost sales and business opportunities because of the plaintiff’s inability to be actively and directly involved in its operation. He also testified that he resigned his position and accepted a position with another company because he believed the plaintiff’s company would face very difficult times without the plaintiff’s direct involvement.

The defense’s economic expert presented a much different picture. The expert asserted that the firm was failing prior to the accident and would have most likely failed regardless of the plaintiff’s injuries. The expert presented information that the business was in arrears for its taxes and loan even prior to the accident. Also, the defense had the plaintiff’s banker give testimony that the bank was very concerned about the future of the company early in its organization because this small bank had loaned it \$400,000, which was the bank’s largest loan.

**METHODOLOGY**

Five hundred residents of South Louisiana comprised a stratified random sample who received the case study and survey instrument personally or by mail. The sample was designed by separating the population into strata according to demographics and then selecting a simple random sample from each stratum to ensure the study included all demographic groups. Two hundred thirty seven of the sample size of 500 (47.4%) provided a usable completed questionnaire. The completed questionnaires were fairly evenly distributed along the lines of the demographics of the population for sex, race, educational, age and income (See TABLES I through V for selective demographics counts).

In addition to asking for demographic data, the instrument also contained questions concerning whether the respondent had ever been a party to a personal injury lawsuit or closely known someone who had been, and whether they or their acquaintances were plaintiffs or defendants. (See TABLE VI).

The sample was then analyzed based on the simulated jurors’ individual characteristics and their answers to the questionnaire using Chi Square contingency tables.

**Table I  
Race By Sex**

<b>Race/ Sex</b>	<b>Total</b>	<b>African/Americans</b>	<b>White</b>	<b>Other</b>
Male	111	31	61	19
Female	126	33	76	17
Total	237	64	137	36

**Table II  
Race By Age**

<b>Race/Age</b>	<b>Total</b>	<b>African/Americans</b>	<b>White</b>	<b>Other</b>
Under 30	61	18	39	12
30 to 40	56	14	29	8
40 to 50	51	12	31	6
Over 50	69	20	38	10
<b>Total</b>	<b>237</b>	<b>64</b>	<b>137</b>	<b>36</b>

**Table III  
Race By Sex By Age**

<b>Race/Age</b>	<b>Total</b>	<b>African/Americans</b>	<b>White</b>	<b>Other</b>
<b>Female</b>				
Under 30	33	8	19	6
30 to 40	29	6	15	8
40 to 50	26	7	18	1
Over 50	38	12	24	2
<b>Total</b>	<b>126</b>	<b>33</b>	<b>76</b>	<b>17</b>
<b>Male</b>				
Under 30	28	8	14	6
30 to 40	27	7	13	7
40 to 50	25	5	17	3
Over 50	31	11	17	3
<b>Total</b>	<b>111</b>	<b>31</b>	<b>61</b>	<b>19</b>

**Table IV  
Sex By Education**

<b>Race/Age</b>	<b>Total</b>	<b>Female</b>	<b>Male</b>
<12 Grade	24	7	17
HS Graduate	94	51	43
Some College	59	37	22
College Graduate	39	22	17
Post Undergraduate	21	9	12
<b>Total</b>	<b>237</b>	<b>126</b>	<b>111</b>

**Table V  
Family Income**

<b>Annual Family Income/</b>	<b>Total</b>
<\$16,000	9
\$16,001 to \$30,000	23
\$30,001 to \$60,000	96
\$60,001 to \$100,000	62
Over \$100,000	47
<b>Total</b>	<b>237</b>

**Table VI**  
**Has Been Involved In A Personal Injury Suit Or Knows Someone Well Who Has**

	<b>Yes</b>	<b>No</b>	<b>Total</b>
<b>Male</b>	68	43	111
<b>Female</b>	74	52	126
	142	95	237

**RESULTS**

The answers given by women are the most interesting, significant and were not expected and thus are the central part of this section’s coverage (See Table VII). The other basic demographics were not remarkable and did not show differences in results award. The least anticipated finding was that young (under 30 years of age) white women were not inclined to provide any economic award to the plaintiff and when they did, it was significantly smaller than any other demographic group. This respondent cluster was the only group that had more than one participant answer that the plaintiff should not even get the total value of his vehicle damages. After evaluating their remarks from the open-ended comments section of the questionnaire, a possible explanation for the young white women’s position is that the plaintiff should not have brought the suit against the defendant and should suffer for it. A Chi Square test was performed to determine if white women’s responses differ from African American and Other women for the vehicle damage award. The hypothesis (for women) of independence is rejected and it is concluded that a vehicle damage award for any amount (if at all) is quite probably dependent on race ( $X^2 = 32 > X2 = .99(4) = 13.3$ ).

**Table VII**  
**Vehicle Damage Award By Female**

<b>Classification</b>	<b>Award</b>			<b>Total</b>
	<b>No Award</b>	<b>Some Award</b>	<b>Total Award</b>	
White Women under 30	5	7	7	19
White Women 30 to 40	0	4	11	15
White Women 40 to 50	0	3	15	18
White Women over 50	0	4	20	24
A.A.* Women under 30	1	0	7	8
A.A. Women 30 to 40	0	0	6	6
A.A. Women 40 to 50	0	1	6	7
A.A. Women over 50	0	2	10	12
Other Women under 30	0	0	6	6
Other Women 30 to 40	1	1	6	8
Other Women 40 to 50	0	0	1	1
Other Women over 50	0	0	2	2
<b>Total</b>	<b>7</b>	<b>22</b>	<b>96</b>	<b>126</b>

\* African/American

**Table VII**  
**Vehicle Damage Award By Females**

<b>Classification</b>	<b>Award</b>			<b>Total</b>
	<b>No Award</b>	<b>Some Award</b>	<b>All</b>	
White Women	8	20	49	77
A.A.* Women	0	3	29	32
Other Women	0	1	16	17
<b>Total</b>	<b>8</b>	<b>24</b>	<b>94</b>	<b>126</b>

White women overall were the least generous in making any award. Non-white women of all ages overwhelmingly favored an award for not only the vehicle damage, but for the plaintiff’s medical expenses and for some amount for the business damages (SEE TABLES VIII and IX). A Chi Square test was performed and the two hypotheses (for women) of independence is rejected and it is concluded that a medical expense award ( $X^2 = 69.9 > X2 = .99(4) = 13.3$ ) and the business damage award ( $X^2 = 33 > X2 = .99(4) = 13.3$ ) is quite probably dependent on race.

**Table VIII  
Medical Expense Award By Females**

Classification	Award			Total
	No Award	Some Award	All	
White Women	22	28	27	77
A.A.* Women	1	4	27	32
Other Women	0	3	14	17
Total	8	24	94	126

\* African/American

**Table IX  
Business Damages Award By Females**

Classification	Award			Total
	No Award	Some Award	All	
White Women	40	21	27	16
A.A.* Women	3	10	19	32
Other Women	1	5	11	17
Total	8	24	94	126

\* African/American

The non-white classification awarded a larger total dollar value for each damage groups (vehicle, medical and business) and total than the white group. A t-test was performed and the differences was significant at the .01 level. Also, the non-white women gave the overall largest average award (SEE TABLE XI). Some respondents gave a total award larger than the total sought (\$320,000).

**Table XI  
Dollar Average For Total Award**

Classification	Average Award	Compared to Average
White Women	\$72,124	-\$43,863
A.A.* Women	\$182,333	
Other Women	\$159,984	
White Men	\$119,965	
A.A. Men	\$144,331	
Other Men	\$154,111	
Total Weighted Average	\$115,987	

\* African/American

## CONCLUSIONS

Whether or not demographic factors significantly influence jurors' judgment still remains a question to be resolved with additional research. In particular, further research is needed to assess the interrelationships between salient juror characteristics, including demographics, and the extent to which they are moderated by other individual characteristics including personality, psychographic and lifestyle factors in jurors' decision making and deliberation processes. Of course the participants of this study were not members of a live jury in a real court room deciding a verdict. A case study such as this cannot replicate the dynamics of a jury trial or what takes place in the jury deliberations or even the dynamics of a controlled mock jury experiment. Despite these limitations, the findings of this case study indicate that certain demographics may influence a person's penchant for deciding personal injury awards and suggests that that certain demographics groups may have a more liberal or open mind to granting a personal injury award while others have a predisposition to be conservative in awards. In any event attorneys who are armed with objective information about possible leanings of particular demographic groups can complement the *voir dire* process with enlightened follow-up. Any resulting advantage, however slight will inure to the benefit of the side that best uses the information in seating jurors favoring their arguments.

## AUTHOR INFORMATION

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**NOTES**