



International Union of Aerospace Insurers (IUAI)

Members Conference 30 May – 1 June 2022





What's Going on with American Juries?

Jury Decision-Making: Trends, Risks and Trial Strategy

Jocelyn V. Cinquino, Esq.

Jury Psychology: Why jurors do what they do

- Multi-dimensional
- Multi-dimensional psychology
- Life experiences drive decisions



Jury Research: Why we do what we do

- To understand who our decision-makers are
- To understand what motivates them
- To construct a compelling case story for the decision-makers
- To make sure our story tellers communicate consistently and effectively



“We all see only that which we are trained to see.”

Robert Anton Wilson

“The optimist sees the donut, the pessimist sees the hole.”

Oscar Wilde

“Hit them where it hurts.”



“\$28 Billion”



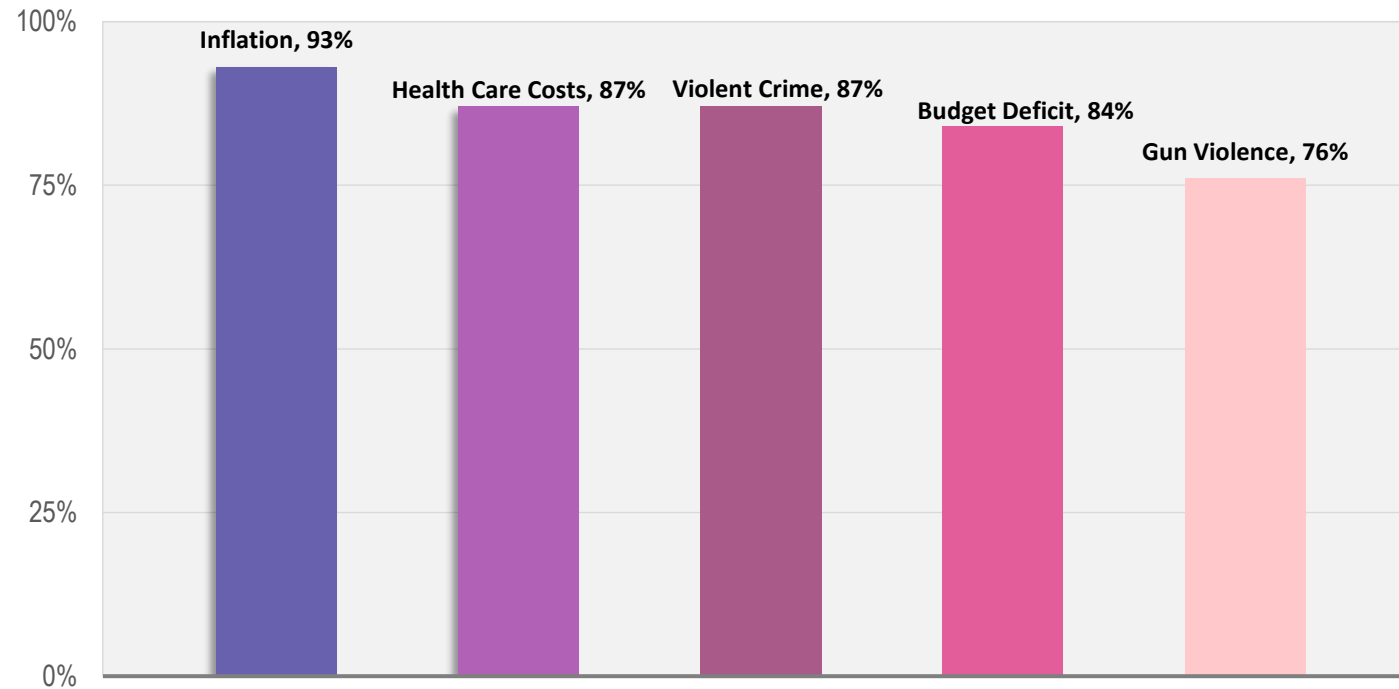
Preconceptions Change and Evolve Over Time

- As culture changes
- As communities shift
- As commonly-experienced events occur
 - Covid-19
 - Crimes garnering national attention
 - Political Issues



Jurors' Reality as a Motivator

Americans List Biggest Problems Facing the Country April – May 2022



Pew Research Center



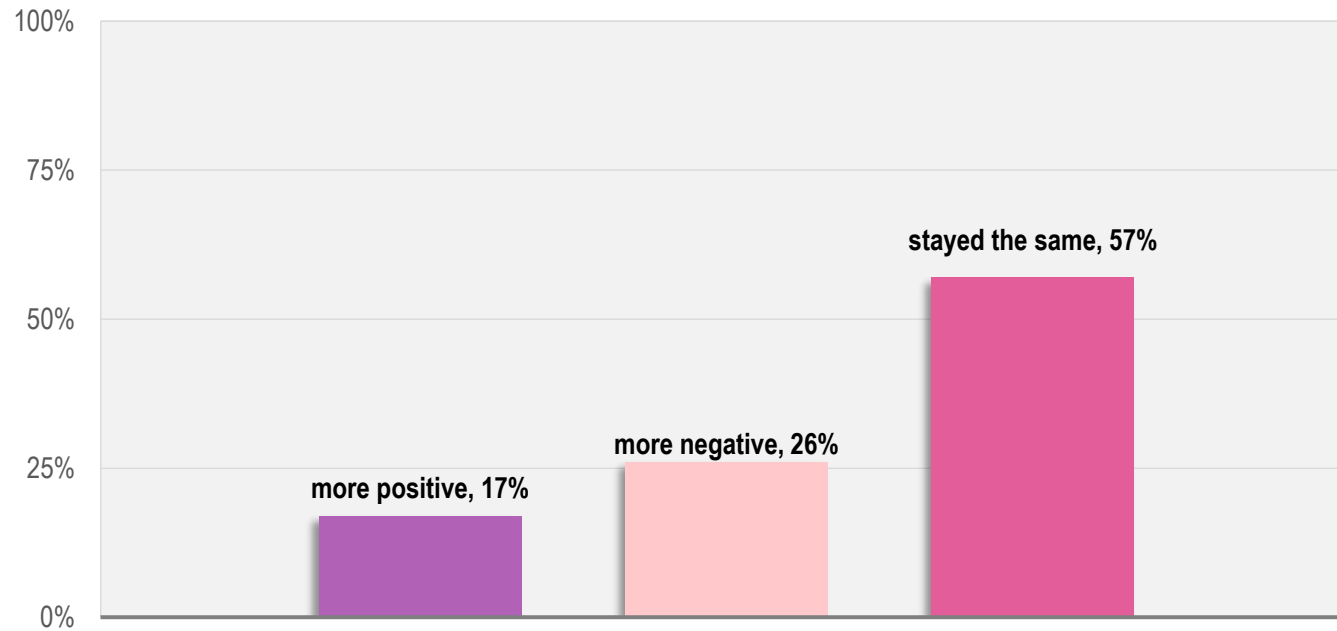
American Jurors' Experience

By the end of 2021:

- Most report knowing someone who was hospitalized or died of Covid-19
- Many moved due to financial reasons related to Covid-19
- Many report declining trust in national and local news media
- Most have experienced extreme weather in the past year
- More say they are unlikely to ever have children; most won't have more
- Most believe that the U.S. is no longer a good model of democracy

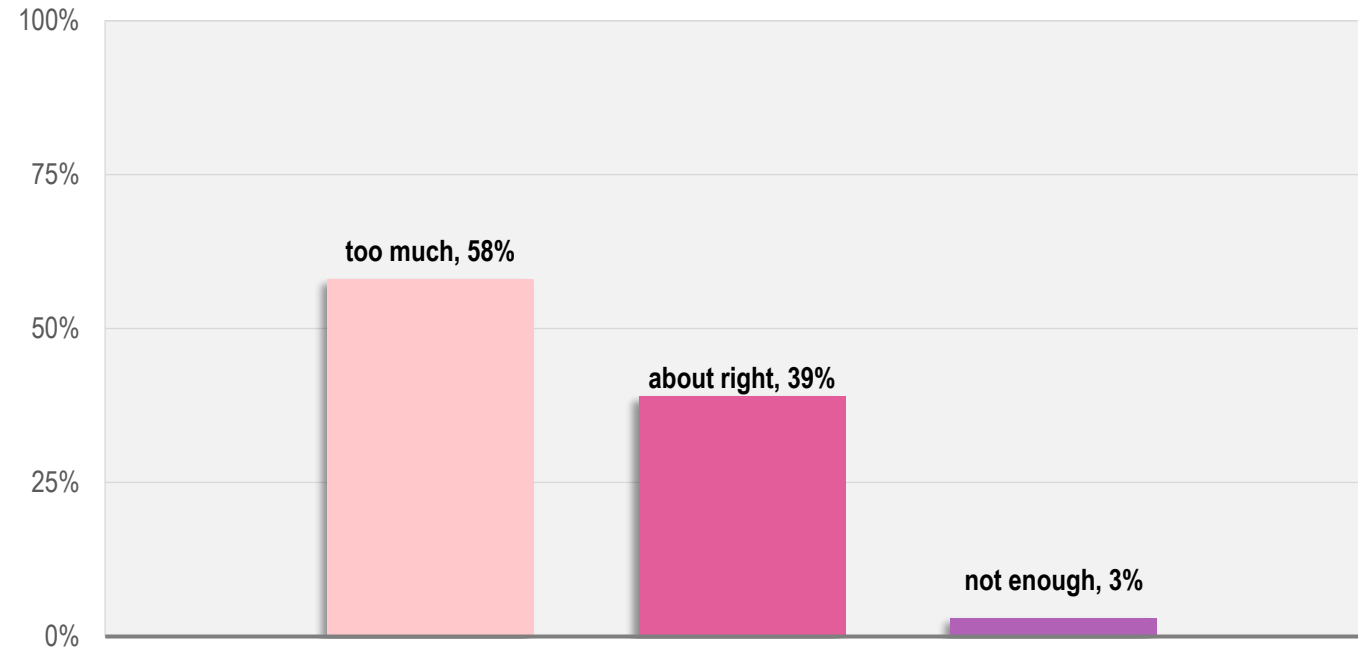
Jurors' Perceptions are Changing

Since the Covid-19 outbreak, your opinion of large corporations has become:



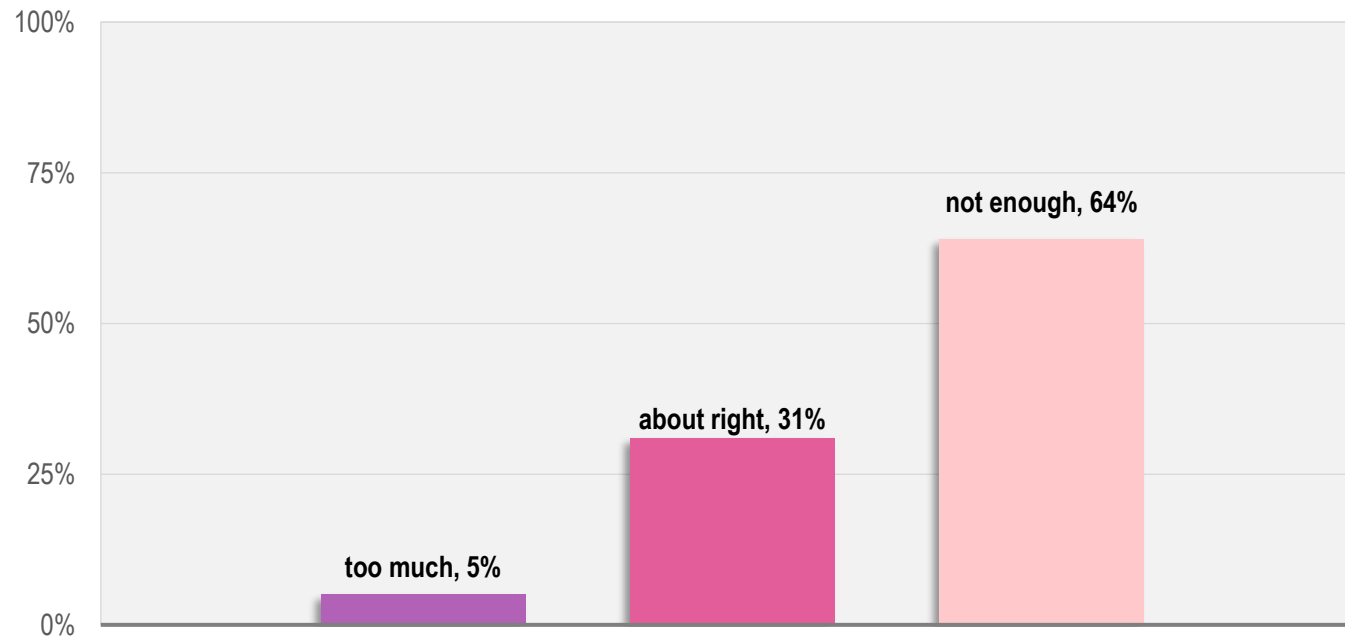
Jurors' Perceptions are Changing

The amount of federal assistance being given to large corporations by the government is:



Jurors' Perceptions are Changing

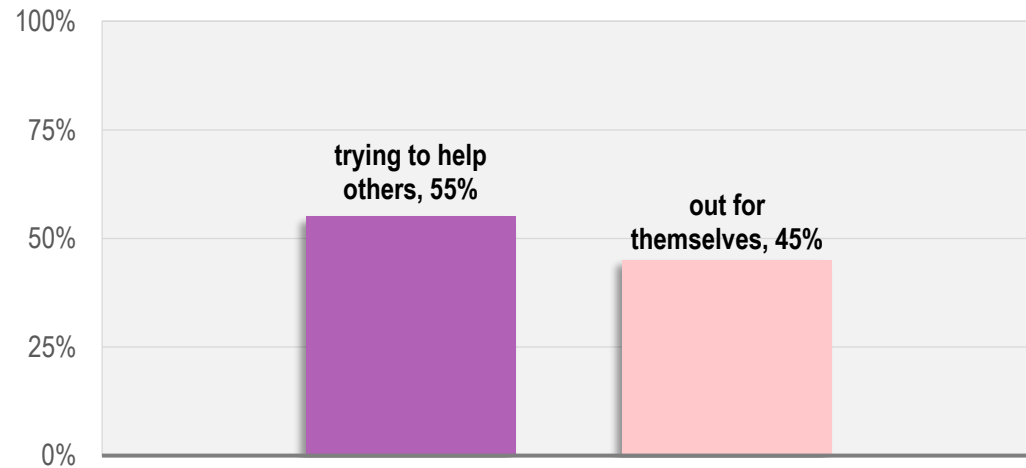
The amount of federal assistance being given to regular citizens by the government is:



Jurors' Perceptions are Changing

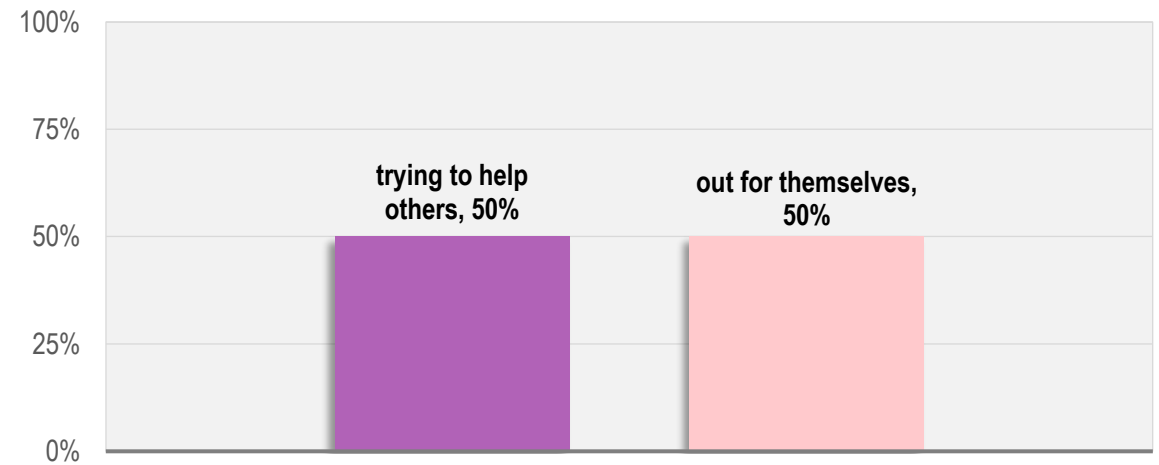
Texas 2020

During the Covid-19 outbreak, would you say that most people are:



Texas 2022

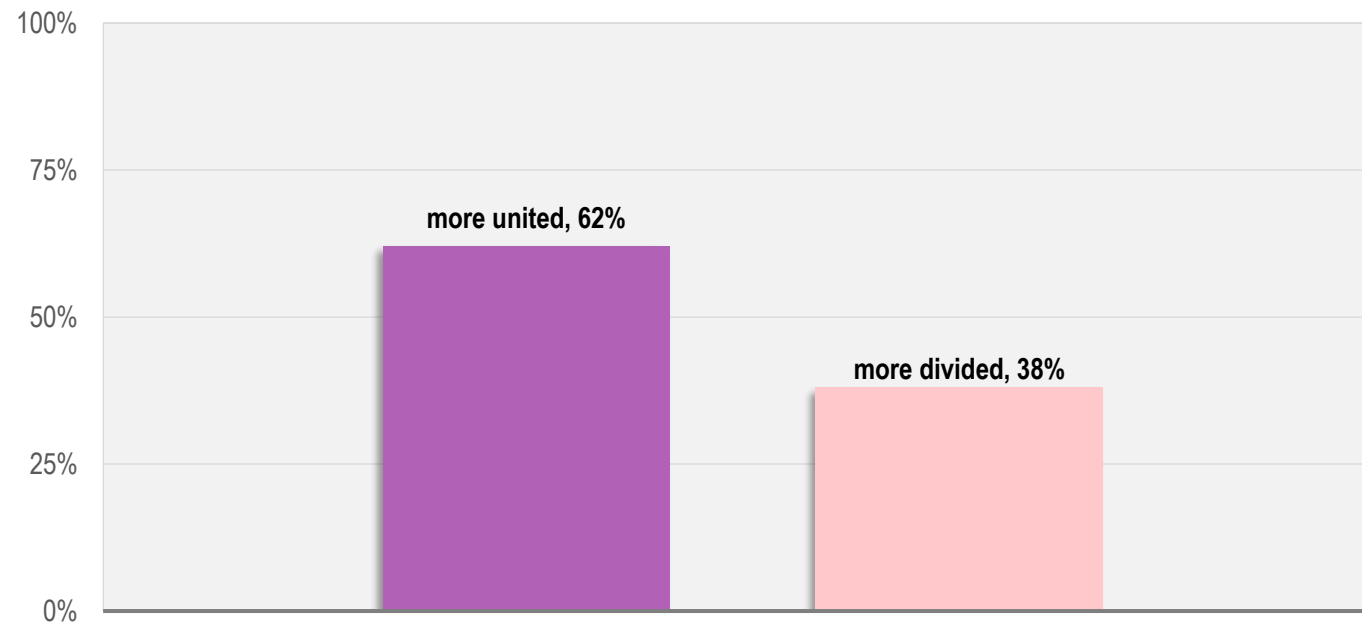
During the Covid-19 outbreak, would you say that most people are:



Jurors' Perceptions are Changing

Texas 2020

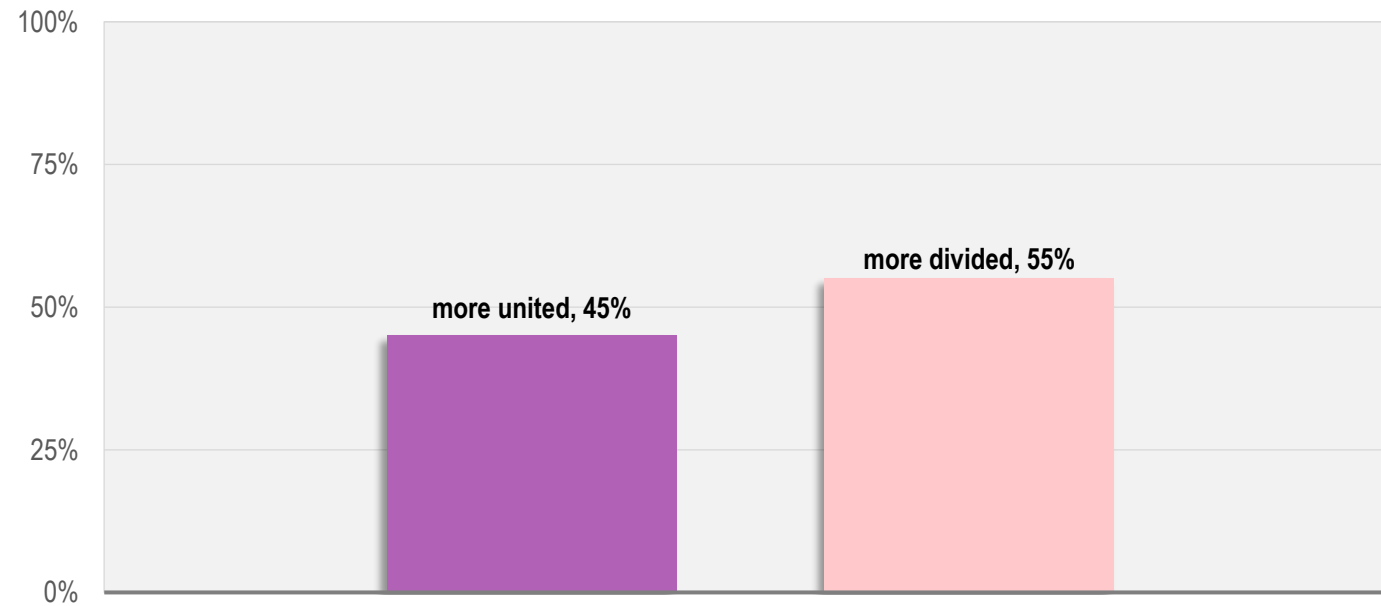
Do you believe that after the Covid-19 outbreak, our country will be:



Jurors' Perceptions are Changing

Texas 2022

Do you believe that after the Covid-19 outbreak, our country will be:



Jurors' Psychological Processes

Confirmation Bias

- What do they remember and focus on from trial
- Retain and use information from trial that fits with what they already believe
- Jurors hear what they want to hear



Jurors' Psychological Processes

Story Model

Jurors:

Build stories based on material presented at trial.

Fill in the gaps in the narrative with their own personal knowledge and experience.

Our Job:

Learning about that personal knowledge and experience.



Applying the Research

Pro-Plaintiff Juror Profile

➤ VICTIMS

- Disability claim denied
- Experienced death of a loved one
- Experienced serious financial setback
- Someone close seriously injured
- Someone close died in an accident



Applying the Research

Pro-Plaintiff Juror Profile

➤ DIFFICULT LIFE CIRCUMSTANCES

- Hardship for personal health reasons
- Hardship for care of another adult
- Became stay-at-home parent
- Involved in a lawsuit



Applying the Research

Pro-Plaintiff Juror Profile

➤ BLAME

- When someone is hurt in an accident, someone else probably did something to cause it
- Company should pay money if its vehicle is in an accident, even if the company did nothing wrong



Applying the Research

Pro-Plaintiff Juror Profile

➤ HIGH EXPECTATIONS/IDEALISTIC

- Holds people who drive for a living to higher standard of safety than others
- Holds companies that put drivers on the road to a higher safety standard than others
- Believes damage awards are about right or too low



Applying the Research

Pro-Plaintiff Juror Profile

➤ DRAWN TO DRAMA

- Watches legal dramas, medical dramas, mysteries, news magazine shows
- Reads gossip magazines



Applying the Research

Pro-Defense Juror Profile

➤ ESTABLISHED

- Worked for employer 15+ years
- Owns home
- Participates in church groups
- Lives in suburban communities



Applying the Research

Pro-Defense Juror Profile

➤ BUSINESS PROFESSIONALS

- Experience in business administration/management
- Experience in insurance
- Experience in sales
- Self-employed/business owner
- Reads professional publications



Applying the Research

Pro-Defense Juror Profile



➤ REALISTIC

- Would NOT hold people who drive for a living to higher standard of safety than others
- Would NOT hold companies that put drivers on the road to a higher safety standard than others
- Believes damage awards are too high

Applying the Research

Pro-Defense Juror Profile

➤ SELF-RESPONSIBILITY

- Disagrees when someone is hurt in an accident, someone else probably did something to cause it
- Disagrees a company should pay money if its vehicle is in an accident, even if the company did nothing wrong



CHALLENGES EVERY LAWYER FACES:

Getting Jurors to:

- Listen
- Understand
- Care

Jurors' Own Words



Jurors' View of Defense Weaknesses

- *Our overall tendency to feel for the victim and want to punish somebody/business.*
- *The defendant is supposed to train these people, if something happens it's on them.*
- *The defendant could have prevented this, full stop.*
- *The weakest part was partially accepting responsibilities for damages, by stating what they think the plaintiffs deserve.*
- *Why would you give payment information if you have no responsibility?*



Big Business: Heightened Expectations



Big Business: Ethical Considerations



Big Business: Impact on Damages



Big Business: Impact on Damages



Big Business: Impact of Anger on Damages



Damages: “Punish now or never.”



SHAPING A PERSUASIVE STORY:

What Matters Most:

- Language
- Tone
- Order
- Consistency

Messaging Matters



Empower Defense Jurors



Empower Defense Jurors

