



DECISIONQUEST

**DecisionQuest/MCCA
Nationwide Jury Perception Project**

EXECUTIVE SUMMARY

The findings are based on a nationwide survey of 1000+ jury eligible adults and fourteen group discussions conducted in seven venues across the country in July and August of 2002:

Wilmington, Delaware; Leavenworth, Kansas; Beaumont, Texas; Baton Rouge, Louisiana; Pascagoula, Mississippi; Edwardsville, Illinois; Los Angeles, California

October 2002

Methodology

Jury Perception Groups

In each venue, two groups of approximately 10 jury-eligible residents shared their general attitudes toward and experiences with large corporations, pollution, government regulations and other issues, and then discussed several case scenarios. The scenarios were based on real legal disputes concerning employment discrimination, environmental racism, asbestos-related illnesses and product liability. The venues included: Wilmington, Delaware; Leavenworth, Kansas; Beaumont, Texas; Baton Rouge, Louisiana; Pascagoula, Mississippi; Edwardsville, Illinois; Los Angeles, California.

Nationwide Survey

Based on the findings of the Jury Perception Groups, DecisionQuest identified issues that are of most concern to jurors and of most direct influence on their predispositions toward corporate litigants. Based on the findings, a seventy-seven question survey was designed. The survey was conducted over a period of several days in September of 2002. One thousand and four jury-eligible adults across the country participated in the survey.

If you have any questions, please contact:

Project Director: Dr. Allan H. Colman
310.618.9600

Key Findings

- This research project allowed us to explore potential jurors' opinions and experiences and the ways these opinions and experiences influence their perceptions of large corporations, their actions and their responsibilities today. The results illustrate not only deepening distrust of corporations, but that recent events have shaken even the strongest corporate supporters. They also revealed dissatisfaction with litigation as a solution to people's problems with corporations, a great deal of resentment toward plaintiff attorneys who represent people in class-action lawsuits, and a broadening of the range of demographics of jurors predisposed to favor plaintiffs. The research groups provided multiple examples of how dangerous it is to rely on stereotypes.
- Jurors' opinions of corporate America have considerably deteriorated in the last few years.
 - The major blows to corporate reputations were delivered by tobacco litigation, recent corporate bankruptcies, and alleged scandalous revelations.
 - A cause for particular outrage is the contrast between personal enrichment of senior corporate executives and the lost pensions of regular workers.
 - Other factors include personal and second-hand knowledge of asbestos, employment, and environmental litigation.
- This deterioration of corporate image directly affects the credibility of statements made by corporations and their executives in all forums, including the courtroom. More than ever, jurors tell us they want to see transparency and accountability and yet, even they realize that the mechanisms of corporate life have become exceedingly complex and hard to understand for a regular juror. Suspicions run high when understanding is low.
- Venues identified as difficult for corporate litigants are, in addition, characterized by jurors' negative personal experiences with local corporations. There were complaints of high levels of pollution and cancer on the one hand and lay-offs on the other. We observed these factors, in different degrees, in Louisiana, Southern Texas, Mississippi, and Madison County, Illinois. The combination of such experiences and recent knowledge of bad corporate conduct acquired through the news media makes people angry.
 - The most difficult venues are also characterized by lower levels of respect for government regulations and their enforcement. In these venues, jurors

typically perceive high levels of government corruption and inefficiency. This undermines the effectiveness of a corporate defense based on the fact that a company followed government regulations. However, even in these venues, a corporation is perceived as having acted responsibly if it can show that it did not withhold critical information from plaintiffs and was willing to listen to their complaints.

- More so than in other venues, in the “difficult venues” the key point of contention between plaintiff and defense oriented jurors, that can lead to a defense victory, is the extent of the plaintiffs’ responsibility. On most juries there are people who focus a critical eye on the plaintiffs: what did they know, what could they have done differently, do they have a tendency to sue, to complain? These people may have negative impressions of corporations, but they have strong feelings about individual responsibility and initiative. They also tend to look for alternative causes of the plaintiffs’ condition, e.g., a different source of exposure to chemicals.
- Jurors generally agree that litigation plays a role in making products safer and corporations more responsible. However, today more than ever, jurors are discontent with the current state of litigation. Plaintiff attorneys, especially those that lead class-action lawsuits, are perceived as mostly enriching themselves. We’ve heard the words “tort reform” from unlikely sources: poorly educated workers from the rural South who claim to have little or no interest in reading newspapers.
- This research showed new tendencies in associations between jurors’ demographics and their attitudes.
 - People who typically would have supported corporate defendants (e.g., educated white males) in the past are now more reluctant do so. Some of them feel betrayed and disappointed – they had a better opinion of corporate management and are now quite willing to send a message in the form of a punitive award. Others sound defensive and unsure, often conceding on important points.
 - Years of equal rights movements have led to the development of more minority jurors that have experienced less discrimination and now occupy positions of responsibility. These jurors are more receptive to corporate defendants’ arguments than are many disaffected and disillusioned representatives of the white middle class.
 - On the other hand, awareness of discrimination has led many more groups of people to feel affected by various forms of discrimination and to be sympathetic to plaintiffs who make such claims. Stereotyping jurors based on their race or gender becomes more dangerous every day.

Corporate Image

- This survey reveals disturbing trends in jurors' perceptions of corporate America. Important cornerstones of corporate credibility have been significantly weakened by the events of the last twelve months.
 - Most jurors used to believe that audits serve as checks on corporate conduct and uncover fraudulent activity. This perception is almost gone. Jurors' trust in corporate records has also been eroded with reports of corporate record destruction. Respect for corporate management has been decreasing steadily, but recent events have shaken even the strongest corporate supporters.
- It used to be our experience that people with strong and specific negative attitudes toward large corporations were in the minority in most areas of the country. Usually these were people with personal grudges, who blamed corporate powers for their personal failures, or people with strong anti-corporate political views. Demographics never played a very strong role, but successful white males tended to be the strongest corporate defenders. This research shows strong negative attitudes toward large corporations can be found not only among selected groups of those who perceive themselves as disenfranchised, but also among successful managers, business owners, and comfortably situated homemakers. Corporate greed, corruption and indifference have become the expected norm, even as corporations look for new ways to show they care.
 - Tobacco companies are a good example. In the past, jurors believed that people chose to smoke and their choices were their responsibility. Now, the common belief is that tobacco companies make money by addicting people to their cigarettes through chemicals and advertising. When jurors were asked for examples of bad corporate behavior, tobacco companies almost always came up first.
 - Enron and WorldCom are other examples. The effect of their deceit on people's retirement savings is extremely disturbing to potential jurors, and especially to those who traditionally were very supportive of large corporations – people who invest in the market and follow financial news. Some of these people feel disappointed to the point of feeling betrayed.
- The interviews conducted in the course of this study concerned potential jurors' direct experiences with large corporations as employers, neighbors and providers of goods, as well as with their indirect experiences through the news media. The interviews show that in most venues, large corporations have developed reputations that put them at a distinct disadvantage in the courtroom. This was not as widespread a problem as it now appears to be.

- While the role of the media cannot be overlooked, this research uncovered that the worst corporate reputations exist in areas with significant corporate presence, and the best reputations seem to exist in areas where large corporations and heavy industry do not have a significant presence.
- Our research found that people in areas with stronger economies are less inclined to punish corporations with large awards than people in areas where the economy is in recession.
- This survey gave us the opportunity to focus on jurors' perceptions of corporations as citizens of their communities and of this country. The process of defining corporate citizenship is complex and has a long history. We found that people struggle to reconcile corporate conduct with their understanding of what a good citizen should be. The current situation appears to be particularly unfavorable to corporations because jurors' expectations of and anger toward corporations seem to be developing faster than changes in corporate conduct.
 - The image that corporations create for their consumers appears to be significantly different from their images as corporate citizens and largely irrelevant for litigation purposes. In the past, many Americans were proud of their corporations and the wonderful things they manufacture. This sense of pride has subsided significantly according to our research.
 - We found that corporations, with few exceptions, are not considered to be conscientious members of their local communities. Jurors were aware that a corporate presence provides jobs, taxes, and occasional donations, but it also provides pollution and lay-offs. With different degrees of bitterness, people reflected on corporate presence as a "catch-22": jobs seem to come with pollution, and there is no way around it because environmental regulations are not strict enough and are not enforced properly.
 - In general, corporations are perceived as taking care of the environment and their workers when they are forced to do so, but never as a result of their own free, good will.
 - Bitterness toward corporations increases when jurors discuss local corporations and jobs being transferred to third-world countries, while already-existing pollution is left behind. In all seven of the research venues, people are very aware of the globalization process, see globalization as inevitable and financially sound, but wonder if their communities necessarily have to be victims of the process.
 - Corporations, as perceived by our respondents, lack character and good will. Rather, they are detached entities motivated solely by the desire to

make money. Corporate officers are unknown to the public and unseen by workers. The only time when most people recall ever seeing a CEO of a large company is when giving testimony to Congress.

- Jurors in our survey were able to cite a few positive examples of corporate conduct. These included family owned companies, where the owners visit their plants, converse with workers, and help workers during tough times instead of laying them off at the first sign of trouble. Such companies may be quite large and even have international presence. Other examples involved companies that have a reputation of taking good care of their employees by paying them good wages and providing good benefits. A few companies attracted jurors' attention by establishing health-monitoring programs and donating to the surrounding communities. However, people regard corporate contributions as extremely insufficient. Corporate donations are often characterized as tax-saving techniques or expressions of guilty feelings. Often jurors feel that donations are made for the sake of creating visibility and not for the sake of addressing pressing community needs.
- Poor corporate image is a systemic problem that can hardly be resolved in the courtroom. Corporate dishonesty, coldness and greed are now part of most jurors' belief systems. The hardworking and dedicated people employed by large corporations do not form a part of this image, and it requires great skill to present them adequately to the jurors. Presenting corporations, their experts and management in the courtroom, is clearly an uphill battle, in some venues more so than in others.

Corporations Know But They Don't Listen

- The key problem with corporations that people cited is their lack of attention and respect to the people that are affected by corporate actions. The most commonly expressed wish is to have corporations listen to their own workers and to the people who live in the surrounding communities.
 - One of the most interesting findings was how much people wanted to talk about all of the issues that were raised: most groups did not want to end and would have continued the discussions if allowed to.
- People repeatedly stated that they feel that by virtue of their size and power, corporations possess great knowledge about:
 - Everything that happens at corporate facilities. Jurors expect the management of large corporations to know everything that happens on every plant, dock and shipping station. As one juror in Baton Rouge put it: "That is why they have weekly meetings." It is exceedingly hard for a company to argue that it did not know that something untoward was taking

- place within it, no matter at which level. Jurors come up with ingenious ways of arguing that corporations could have and should have known about, for example, the discriminatory practices of one of its lower level supervisors.
- The same is true for chemicals companies' use of chemicals in manufacturing and the effect these chemicals may have on people and the environment. The research demonstrated a general belief that corporations have this information well before the public does and divulge it unwillingly only when the consequences become too obvious. Tobacco and asbestos companies are prime examples for jurors of companies that withheld information about the health hazards associated with their products. Given this image, one company document that expresses concern about an effect of a chemical on people could outweigh days of expert testimony that this concern was unfounded at the time, given the level of scientific knowledge.
 - Combined, these jurors' perceptions of great knowledge and inattention give a picture of corporate arrogance that can be summarized as: "We, corporations, know more than you do and will not tell you what we know and will not listen to what you have to say, because your opinions are of no consequence to us and we know better anyway." Jurors' resentment translates into plaintiffs' verdicts and punitive damages.
 - More than ever, jurors want their punitive damages to hurt the wealthy management/ownership of a company. Still, the primary motivation for punitive damages is not to hurt, but to make companies listen. Very often the courtroom conduct of corporate attorneys and witnesses contributes to jurors' preexisting perceptions of corporate arrogance.

Plaintiff Attorneys

- We observed a great deal of resentment among our research subjects toward plaintiff attorneys who represent people in class-action lawsuits. People with less than a high school education, members of class-action lawsuits, workers, and housewives spoke favorably of tort reform that would stop these lawyers from making fortunes off plaintiffs' suffering, while giving little or nothing to the plaintiffs themselves. The common wisdom in the most litigious counties is, if something wrong was done to you, get your own lawyer - you would not get anything as part of a class-action suit.
 - The worse a venue is for a corporate defendant, the worse reputations plaintiff lawyers seem to have there as well.

- However, this attitude is not helpful to corporate defendants. Personal attacks on plaintiff attorneys backfire, because jurors equally resent corporate attorneys and see personal attacks as distracting and disrespectful to everyone present. None of the potential jurors said that they would be inclined to award less damages to the class because of their resentment toward the lawyer. On the contrary, respondents said that they would award more money in order to make sure that at least something would trickle down to the actual people who had suffered.

Demographics and Experience

- The research groups provided multiple examples of how dangerous it is to rely on stereotypes.
 - We heard minorities expressing skepticism toward claims of racial discrimination. (In many cases minorities feel freer to do so, while white jurors are hesitant to speak for fear of being labeled as racist. A lot depends on the racial composition of the group, and having an actual racist on a jury could hurt a corporation defending itself against allegations of racism, because this racist would probably inflate the passions of other jurors).
 - We heard white, well-to-do homemakers express greater sympathy toward a victim of racial discrimination than union members or minority workers.
 - We frequently heard white, educated males expressing great suspicions of corporate motives in a whistle-blower scenario and great outrage over recent scandals that cost thousands of workers their retirement savings.
- This research further confirmed that in a case involving discrimination, it would be simplistic and detrimental to assume that a minority juror would necessarily be a less favorable juror for the defending corporation than a white juror. It is true that a person who had personally experienced discrimination would be more understanding of the plaintiff's anguish. But it is not true that this person would be unwilling to be critical of the plaintiff's acts and motives. Moreover, this study shows that discrimination has become a very broad concept that is applied to a great variety of behaviors and types of people. Our respondents discussed subtle forms of discrimination that can make a victim's life very unpleasant, but that are nearly impossible to prove. Many jurors describe personal dislike of one employee by a supervisor as discrimination.
 - Not infrequently, white males speak of discrimination against them. An African-American woman described discrimination by a gay manager against straight employees. Women agree that while great progress has been made, discrimination against women, especially in terms of

compensation and promotion to higher position, remains a reality. Thus, people sympathetic to a victim of discrimination can be found in every demographic category.

Attitudes That Motivate Jurors' Judgment

Corporate America

- Corporate America always has had its critics, but now it begins experiencing a shortage of supporters.
 - The survey shows that over sixty percent of people changed their opinions about large corporations for the worse in the last year.
 - Almost ninety percent of our respondents feel that corporate America must do more in terms of giving back to the community. More than two thirds of these respondents feel strongly about that.
 - Over seventy-five percent answer “yes” in response to question of whether there is anything about corporate America that makes them angry.
- Jurors do not trust corporate executives and their advisers.
 - Over seventy percent think that auditors would do whatever their corporate clients tell them to do even if it means being dishonest.
 - Almost eighty percent of people believe that many companies destroy documents hoping to avoid responsibility.
 - Eighty-five percent of the people feel that large corporations tend to hide information about the dangers associated with their products and their waste until the government or a lawsuit make them tell the truth.
- More people than in our prior experience favor increases in government regulation of large corporations. The share of people who favor a reduction in government involvement shrank to twelve percent.
- Following revelations of corporate fraud that left regular employees without pensions, people are particularly incensed by the amount of compensation received by corporate officers.
 - Less than ten percent of the respondents consider senior executives' compensation appropriate. Almost ninety percent feel that executives are overpaid or make outrageous amounts of money.
 - Over seventy percent of people feel that the way senior executives are paid promotes corruption.
 - Over eighty percent feel that large corporations neglect important long-term goals in favor of making money now.

- Jury Perceptions Groups showed that jurors' perceptions of large corporations are influenced by their concerns about pollution, their opinions about their local corporations and the revelations stemming from tobacco litigation and settlement, environmental litigation, asbestos litigation, and by Enron, WorldCom and other recent corporate fiascos. All these scandals carried with them revelations of senior executives' secret knowledge that could have been used to prevent damage to health or well-being of others. Instead, the prevailing belief is that the executives suppressed the knowledge, and deceived the public - all for the purpose of enriching themselves. The telephone survey showed that:
 - Over eighty percent of respondents believe that events at Enron and WorldCom are really just the "tip of the iceberg" and it is only a matter of time before many other big companies are exposed.
 - Sixty five percent of respondents claim that the news of the Enron scandal only confirmed their suspicions. Over twenty percent report becoming more suspicious of large corporations. Almost ten percent say that the events destroyed their trust in corporations. Less than five continue to keep their trust.

Environmental Issues

- Attitudes toward environmental pollution play a very important role in people's views on corporate America.
 - Respondents' verdict preferences, in all litigation scenarios presented to them, strongly correlated with respondents' experiences and attitudes toward industrial pollution. The more concerned people are about pollution, the more suspicious they are toward corporations in general. In our discussions, we have heard these people express strong anti-corporate views, not only in the context of cases involving pollution and use of chemicals, but in many other types of litigation as well.
 - Our survey showed that over seventy percent of respondents feel that large corporations do not pay enough attention to the concerns of people in their surrounding communities.
- Areas with high pollution levels also tend to be the most difficult venues for corporate litigants. The four worst states for corporate defendants listed by the Chamber of Commerce - Louisiana, Mississippi, Texas, Illinois - all have extraordinary high levels of pollution.

- We went to venues within these states that are most infamous for their large verdicts: Beaumont, TX; Pascagoula, Mississippi, Madison County, IL. In all these places our respondents told us about foul chemical smells, cars and fences that rot from the environmental pollution, spills, weird cancers and allergies. Most potential jurors know someone who has cancer arguably attributable to environmental pollution. People readily educated us about their belonging to a cancer alley or a cancer crescent and the types of cancers that the place is known for. For example, people who live and work in Granite City, IL are reputed not likely to live past their fifties because of various cancers affecting both corporate workers and corporate neighbors.
- What is most worrisome, however, is that in most other venues people begin to express the same heightened concerns about the effect of environmental pollution on their health. People's expectations of what the companies have to do in order to be judged as having acted responsibly also considerably increased in the last decade. However, in the venues more favorable to corporate litigants, people experience less pollution, have better employment opportunities, and have a higher educational level.
 - Only twelve percent of the American population never worries about pollution.
 - Over thirty percent feel that their own health or the health of someone they love has been harmed by exposure to chemicals at home, at work, or in the environment. An additional thirteen percent think it is probably the case.
- People continue to be dissatisfied with the government's attempts to regulate pollution.
 - Almost sixty percent of respondents across the country think that existing environmental laws are not strict enough.
 - Almost sixty percent think that the government is either not enforcing these laws as well as it should or does it very badly.
- This survey shows that growing awareness of the health hazards of environmental pollution coupled with revelations that large corporations hid information critical to people's health led people to form strong, internally consistent negative opinions about large corporations, where their experiences with pollution are supported by what they hear on the news.
- The allegations of environmental racism on the part of companies that polluted predominantly near minority communities are met with following responses:

- Over sixty percent feel that minority communities suffer from pollution as much as non-minority communities. A third of the respondents feel that minority communities suffer more.
- Less than thirty percent of the respondents feel that companies responsible for polluting predominantly near minority communities should be punished. . And lawsuits.

Employment Issues

- Jurors are experts on employment issues. They take them close to heart and scrutinize evidence in light of the opinions they formed throughout their own employment histories and stories they heard from others.
- One of the most common sentiments expressed by our respondents is that large corporations do not pay enough attention to opinions and concerns of their employees.
 - Eighty percent of the respondents feel that corporations do not pay enough attention to workers' opinions.
 - Over fifty percent of the respondents feel that complaining to senior management about any work-related issues usually backfires on the employees.
 - Jurors are very suspicious of any internal investigations where people are asked to tell the truth and promised that nothing would happen to them. Most of our respondents declared themselves to be too smart to say anything under such circumstances.
 - Almost seventy percent of our respondents said that they would prefer to work for a small company rather than a large corporation. That is despite general belief that large corporations pay better wages than smaller businesses.
- Jurors give corporations a passing grade for fighting discrimination and providing a safe workplace. However, jurors feel that more could have been done and should be done. Our discussions with surrogate jurors show that corporate achievements in these areas only heighten jurors' expectations and raise the bar.
 - Only fourteen percent of the respondents strongly agree that large corporations do a good job of protecting their workers' health. Fifty percent somewhat agree with that and a quarter of all respondents feel that the job was done poorly.

- Almost thirty percent of the respondents name workers' failure to follow rules as primary reason for workplace accidents. Less than ten percent feel that bad rules are primarily at fault. The majority, over sixty percent blame both reasons equally.
- Over sixty percent agree that most companies failed to protect their workers from asbestos even after its health dangers became known.
- Over seventy percent of respondents agree that racial discrimination is still common, but became subtler for fear of lawsuits. Almost half of the respondents think that corporate America did a good job in fighting discrimination. A quarter of the respondents feel that that the job was done poorly.
- The availability of employment affects jurors' outlook not only on employment issues, but also on corporations in general and, hence, other types of litigation.
 - People who feel that employment opportunities in their area changed for the better are more likely to side with a corporate defendant. People who feel that employment opportunities in their area are diminishing are more likely to be in opposition to corporate litigants.

In our discussion groups, people expressed sadness and anger toward corporations that led to creation of large communities of their workers and then just withdrew from the communities, leaving them to die financially and spiritually. People in these places, that include some of the worst litigation venues, are bitter. They were tolerating pollution for the sake of employment. When the jobs were moved to other countries, all they are left with is pollution