

**JEFFERSON BAR ASSOCIATION
CLE BY THE SEA
MARCH 16-19, 2022**

**LITIGATION ACROSS TIME AND
GENERATIONS**

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OVERVIEW

- Generational Differences in the Practice of Law
- Technological Developments and the Changing Culture of the Practice of Law
- Impact of Social Media on Professionalism
- Communicating with clients, staff and opposing counsel



Like cultural diversity, diversity in the numerous generations currently practicing law is a positive aspect of the current legal climate, but generational differences can also cause difficulties if you are unaware of how different generations communicate.



To overcome those difficulties and challenges, it's important to understand each generation practicing law and adapt to changing demographics.

A woman with curly hair, wearing a white button-down shirt, is shown in profile, looking down at a laptop. The background is dark with some blurred lights, suggesting an office or tech environment.

GENERATIONS CURRENTLY PRACTICING LAW

- ◆ Traditionalists (born 1945 and earlier)
- ◆ Baby Boomers (born 1946-1964)
- ◆ Generation X (born 1965-1980)
- ◆ Millennials (born 1981-1994)
- ◆ Generation Z (born 1995-2010)



TRADITIONALISTS

- Job loyalists
- Respect authority and more traditional morals, safety, security, consistency
- Dedicated and willing to sacrifice to get the job done
- Not as technologically savvy
- Tend to be thrifty
- Many are retired, but some still practicing



BABY BOOMERS

- Traditional values and value relationships
- Workplace loyalty
- Work long hours, though finding more of a work-life balance later in their careers
- Enjoy public recognition of success
- Competitive
- Remaining in workforce longer than previous generations



GENERATION X

- Less institutionally inclined than Baby Boomers
 - Value freedom and the ability to control their time
- Latch-key or MTV generation
- More comfortable with technology than previous generations
- “Middle Manager” Generation
 - Most GenXers are Senior Associates or Junior Partners
 - Research indicates that Baby Boomers are not yielding leadership roles and opportunities to GenXers as they remain in the workforce longer than previous generations



MILLENNIALS

- Achievement-oriented
- First generation of children with schedules
- Technologically savvy
- Place more value on personal fulfillment at work
 - Flex hours; work-life balance
 - Want employment that aligns with their personal values
- Largest generation in the United States workforce
 - Currently constitute more than 20% of the legal community
- Higher workplace turnover
- Very enthusiastic and appreciate immediate feedback

The logo for GEN Z features three overlapping white hexagons of varying sizes, creating a geometric pattern. Below the hexagons, the text "GEN Z" is written in a white, serif, all-caps font.

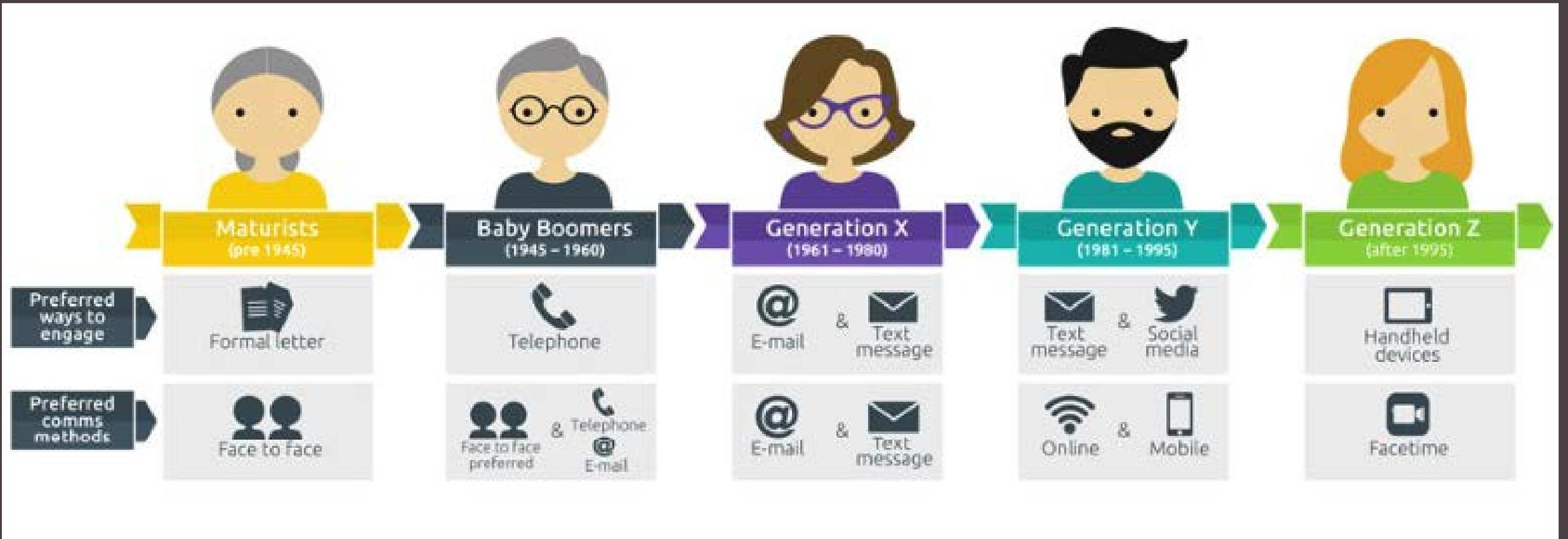
GEN Z

- New associates
- Diversity is their norm; last generation that will be predominantly white in America
- Digital natives
 - Underdeveloped social skills
- Pragmatic and financially minded
- Politically progressive
- Shrewd consumers



COMMUNICTAION STYLES BY GENERATION

- Traditionalists: Phone call or written words in letters
- Baby Boomers: Face-to-face or phone call
- Gen X: Email or text
- Millenials: Text or online
- Gen Z: Text or facetime





The Millennial Perspective

The Stereotype:

Millennials are noncommittal and disloyal. They hop from job to job without regard for the investment made in them by their current employer.

The Reality:

We are a generation striving for a best fit when it comes to work. We also have more student loan debt than any generation before us, and, therefore, we are compelled to seek out opportunities for higher pay and career advancement when they arrive. We also feel a sense of similar disloyalty from employers as pensions have disappeared and at-will employment provides little protection for the employee. We dislike autocratic leadership styles and desire transparency in the workplace, especially as it applies to compensation.



The Millennial Perspective cont...

The Compromise:

Millennials do not only seek financial security in choosing employment. Therefore, retaining talent does not always mean paying higher salaries. We also value adaptable paid time off policies and opportunities for pro bono projects or community outreach. We are the most racially diverse generation and we expect our employers to value true diversity and not just pay lip service to it. We also want our employers to have a core mission. Therefore, meaningful inclusion programs and companywide community involvement will help foster a sense of place and help keep young attorneys engaged in their jobs. Such programs will benefit Millennial attorneys by driving home the mission they seek and benefit the organization by promoting visibility and goodwill.



The Stereotype:

Millennials lack interpersonal skills and are addicted to their phones. They would prefer to use technology to communicate with attorneys, clients and others.

The Reality:

We are the most facile with technology as we are a generation raised on computers. We can use technology to help us multitask and perform necessary job functions faster and more efficiently. We can communicate quickly across platforms which provides recipients with an answer in less time. However, we haven't yet had the time in our careers to build the types of relationships that garner trustworthiness and business.

The Compromise:

Invest time in meaningful mentoring programs. Millennials crave feedback and employers interested in our personal and professional growth. One-on-one meetings allow younger attorneys to gain the benefit of experience from older attorneys and may help a younger generation of tech focused lawyers to develop the soft skills needed for success as a lawyer. In turn, older attorneys can share their insight into their practice and the importance of building rapport and relationships as well as the good will and positive reputation which is required for success in the legal industry.



The Stereotype:

Millennials have no work ethic. They expect to be able to leave the office at 4:30 and to work remotely whenever they please.

The Reality:

We are a generation that values a true work life balance. We do not believe that attorneys must be tied to their desks 80 hours a week to be successful. We are able to use technology to our benefit to telecommute from anywhere around the world.

We are also the generation that is most likely to be married to another person who also has a professional full-time career. Therefore, we share parenting and household duties with our spouses and value a flexible schedule to be able to accomplish these tasks. We also value robust maternity/paternity leave policies.



The Compromise:

Fortunately, the legal field lends itself perfectly to remote work. Therefore, flexibility regarding working hours is feasible and will help retain young attorney talent as long as there is clear communication regarding the parameters of such telecommuting arrangements. This will ensure that employers know that their associates are actually working when not in the office, while employees have the benefit of not being tied to their desks. Firms will ultimately be rewarded by hiring the most self-motivated individuals which will lead to employers needing to spend less time managing employees. This will benefit both the younger attorneys who will gain not only more freedom, but a sense of self-worth and pride regarding their ability to manage their own caseloads. Additionally, such work arrangements allow younger attorneys to feel as though they are being treated as a true professional. Ultimately everyone wants autonomy,

THE CHANGING CULTURE OF
THE PROFESSION



Over the last 50 years, the practice of law has changed dramatically. The culture of the profession is vastly different from what it was. So are its social and economic structures. Social, economic, and cultural shifts have prompted the bench and bar to redefine “professionalism”

The key elements of professionalism in today’s legal environment

- Dedication to serving clients before self
- Dedication to serving the public interest, improving the law and improving the profession



- Devotion to honesty, integrity and good character
- Passion for excellence
- Practice in context
- Maintenance of competence in a specialized body of knowledge and skills, which are freely shared with colleagues
- Independence and self-regulation
- Civility



Forces behind the social, economic and cultural shifts:

- Greatly enhanced competition
- The emergence of new (specialized) areas of practice
- The increase of law firm size and breadth
- Technology



The social, economic and cultural shifts, and the forces behind them, have caused the profession to view ethics and professional responsibility from a different perspective and in a new light. In high stakes litigation, financial and client pressures have led to such malign things as suppression or destruction of evidence, as well as dog-eat-dog mentality that ignores civility and notions of fair play. Technology, at the same time a blessing and a curse, has enhanced lawyers' productivity and, unfortunately, their ability to circumvent the code of conduct.



The major forces behind the generational changes in the practice of law

- Technology
- The advent of legal advertising

Have technology and ubiquitous legal advertising strained the fundamental notions of justice and fair play? Have they strained the system?



Social Media and the Practice
of Law



IM PACTS OF SOCIAL MEDIA

Social Media has impacted the demands of our clients for confrontation and instant gratification.

- Impersonal - Thought the telephone was impersonal? Try email and text messages.
- Instant - No thought process
- The more public the forum, the more confrontational the lawyers become. Why?
- Client wanting attorney to “fight” for them?
- Social Media brings short, offensive one liners to the forefront.
- Short court deadlines do not make for better pleadings, they can make for more offensive ones.

A woman with curly hair, wearing a white button-down shirt, is shown in profile, looking down at a device she is holding in her hands. The background is dark with some blurred lights, suggesting an indoor setting like a conference room or office.

IMPACT OF SOCIAL MEDIAL ON PROFESSIONALISM

- *Attorney and Client*
- *Attorney and Staff*
- *Attorney and Opposing representatives*



Texting with Clients

Though a prevalent method of communication, text messaging with clients should be approached, cautiously, if not avoided, for the following reasons:

- Short text messages are easily misconstrued;
- Text messages are often mistyped and/or “autocorrected” incorrectly;
- Text messages are not easily preserved;
- Short messages cannot convey enough information between client and attorney; and,
- Text messaging may be granting the client too much access, with an expectation of immediate access, to the attorney

Discussion: Do emails face the same problems?



Lawyer's Oath

I solemnly swear (or affirm) I will support the Constitution of the United States and the Constitution of the State of Louisiana;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with a client's business except from the client or with the client's knowledge and approval;



To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications;

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged;

I will never reject from any consideration personal to myself the cause of the defenseless or oppressed or delay any person's cause for lucre or malice.

So help me God.



Difference between Professionalism and Ethics

Professionalism concerns the knowledge and skill of the law faithfully employed in the service of client and public good, and entails what is more broadly expected of attorneys. It includes courses on the duties of attorneys to the judicial system, courts, public, clients, and other attorneys; attorney competency; and pro-bono obligations.

Legal ethics set forth the standards of conduct required of an Attorney; professionalism includes what is more broadly expected. Section 1. Rule 3(c) of the “Rules of Continuing Legal Education” as amended by the Louisiana Supreme Court on May 23, 1997.

Generally, ethics rules tell us what we cannot do and professionalism deals with what we should do.