



What Are Your Jurors Doing on the Internet?

By Christopher Hopkins, Chair, Law Practice Technology Committee

In 2010, the Florida Supreme Court approved a new jury instruction prohibiting venire panel members from searching the internet, “to find out anything related to any cases in the courthouse.” If picked for trial, a juror is further prohibited from “tweeting, texting, blogging, e-mailing, [or] posting information on a website or chat room.”

But that prohibition only exists during voir dire and trial. Depending upon the type of case, it may be important for lawyers to know how jurors generally use the internet. An old trial lawyer technique to obtain insight into potential jurors was to ask if anyone brought a book to jury duty; the concept was that simply bringing a book hinted at the juror’s personality while the type of book further exposed their interests. In our modernized approach, a juror’s internet usage may tell you something about how the person obtains information, interacts with the world, and maintains interpersonal connections. This might provide subtle intelligence as to who to pick and how to best present your case.

In the recent book, *The Shallows: What the Internet is Doing to Our Brains*, author Nicholas Carr explains that the neuroplasticity of our brains physically changes because of the way we more frequently skim information on the internet; this leads to less information passing from short to long-term memory. If your panel is a group of frequent internet-users with skimming habits, a long trial (or the fact that your argument is presented last) may require consideration as to which jurors to pick or how to argue your case. The sites which jurors use to obtain news (e.g., Huffington Post vs. Fox News) may betray their politics. How savvy a person researches (“I’ve used Google Maps Street View to check out if a hotel looks good” or “You can find that on Thomas.gov”) might suggest how detail-oriented and persistent they are. There is an infinite number of internet usage questions which could be tailored to your case.

Years ago in law school, a professor suggested that trial-lawyers-to-be should pay attention to the small graphic on the bottom of the front page of the USA Today which provide quirky statistical information about our society. Keeping tabs on what people in the “real world” were thinking would help the trial lawyer, who is isolated in the office, remain connected. The theory was that you cannot persuade if you do not know your audience (hint: the USA Today graphic is on the free iPad app).

As a recap of 2011, here are some of the more noteworthy statistics about how your jurors stay connected and what they may be doing on the internet.

Connectivity

- 1 in 5 Americans have never used the Internet.
- Those with internet access use it daily (61%) more so than TV (54%), radio (36%) or newspapers (32%).
- 95% of Americans in households making \$75,000 or more

use the internet at least occasionally compared to 70% below \$75,000.

- 83% of adults in the U.S. have a cell phone.
- 76% of Americans own a PC; 47% have an MP3 device; 42% own a home gaming device.
- The average 18-24 year old sends 50 text messages per day.
- Over half of us reported a preference for a voice call versus a message or email – but that preference is reversing in every age group under 54 years old.
- All age groups use a blend of TV, newspapers, and internet for news. TV is the most popular for breaking news (55% over Internet’s 16%) whereas the Internet is the source for restaurant reviews (28%).
- 28% of cell owners get directions or recommendations based upon their current location.
- Nearly 90% of first year law students in a small survey “always or usually” bring a laptop to class for note-taking but nearly all admit to being distracted by email or surfing.
- 32% of wi-fi users admitted to trying to access unsecured wi-fi networks.
- 47% of people with a wireless device check email before bed. 40% kiss spouse or significant other.
- 37% of at-work internet users visited at least one x-rated site; 70% of pornography is streamed between 9 a.m. – 5 p.m.
- Despite our stated concern about online child safety, CNN reports 92% of U.S. two year olds are pictured somewhere on the internet.

Social Media

- 42.3% of all Americans had a Facebook account as of March 2011.
- 65% of online adults use social networking sites.
- Minority internet users are twice as likely to use Twitter than Caucasian internet users.
- 42% of LinkedIn users “regularly” update their profile.
- A survey of women found 83% were annoyed at Facebook friends whose posts involved (in this order) complaining, political talk, and bragging.
- 18% of people use Facebook to find dates whereas 17% go out and meet people in real life (13% use online dating services).
- As of December 2009, Facebook is cited in 1 of 5 U.S. divorces with 81% of matrimonial lawyers reporting an increase in social networking evidence in the last 5 years.
- 4% of Americans use location-based services (e.g., Foursquare).
- 80% of regular internet users were active in “real world” volunteer groups compared to 56% of non-internet users.

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