

Recent Business Scandals and Their Effect on Jurors

Rhon E. Jones

Enron, WorldCom, Arthur Andersen, Tyco, Adelphia. It is almost impossible to turn on the television or open the newspaper without being confronted with yet another corporate scandal. Reports of financially troubled companies and their accountants deceiving the public are commonplace. In the wake of these scandals, Americans are faced not only with losing their jobs, but also with the demise of their stock portfolios and retirement savings.

As the media exposes these corporate wrongdoings, prospective jurors everywhere are forming their opinions. A recent juror attitude study conducted by the Minority Corporate Counsel Association, in partnership with Bowne DecisionQuest, has revealed some alarming conclusions. Out of over 1,000 jury eligible subjects polled nationwide,

- 76 % are angry with corporate America
- 76% think the way executives are paid promotes corruption
- 73% believe auditors cover up for their clients
- 71% expect managers and executives to lie on the witness stand
- 78% believe many companies destroy documents to avoid responsibility
- 85% think large corporations hide the truth about the dangers of their products

“These results illustrate not only deepening distrust of corporations, but that recent events have shaken even the strongest corporate supporters,” summarized Dr. Galina Davidoff, director of the study. “For the first time, jurors feel that they have been touched personally by the actions of the Enrons and WorldComs – they have seen their 401(k) plans devastated and they attribute this to bad actions by corporate America.”

Arthur Patterson, a psychologist with Bowne DecisionQuest, believes the modern trend of billion dollar verdicts is a reflection of this distrust of executives, not only in what they say, but also in what they do. “To punish them, jurors believe it takes billions

with a ‘B.’”¹ The Wall Street Journal reported that defense lawyers are going to great lengths to spot vindictive jurors.² During jury selection for a trial involving a rollover death against Ford Motor Company, in Los Angeles, defense lawyers asked fifty prospective jurors their reaction to this statement: “Corporate executives will lie to increase their profits.” More than half agreed. Rosemary Watson, a postal clerk, reasoned: “I don’t have any proof of that. It’s just an image in my mind that I’ve gotten – news articles, things I’ve heard on the news, and some of the things that have been happening.” Subsequently, the case was settled under a confidentiality provision.

But it’s not only defense attorneys that have their work cut out for them. “We observed a great deal of resentment among our research subjects toward plaintiff attorneys who represent people in class-action lawsuits,” stated Davidoff. However, “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.”

Regardless of which side the lawyer represents, jurors are on their guard. “[T]hey expect plaintiff attorneys to pull on their emotional strings and defense attorneys to confuse them with complex explanations and terminology,” says Davidoff. She has this advice for both sides: “put yourself in the jurors’ shoes and conduct the trial so that they perceive you as helpful for their job, clear, and well-organized. Never try to put the other attorney down – jurors resent it, because you both are members of the same profession.”

¹ As reported in “Business Scandals Rock Juror Attitudes”, Franklin County Trial Lawyers periodical.

² As reported in “Attorneys Find Jury Pools Tainted by Antibusiness Bias”, WSJ.com