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CLIFFORD'S NOTES

One of the biggest headlines this year is celebrity Lori Loughlin and her husband Mossimo Giannulli pleading not guilty to charges of fraud and money-laundering conspiracy in the Operation Varsity Blues Scandal. The couple is charged with paying \$500,000 to the owner of a college admissions counseling company to arrange for their two daughters' admission to the University of Southern California as athletic recruits for the crew team despite the fact that neither of them ever rowed in the past. They are among 33 parents across the country accused of paying William "Rick" Singer to pay off proctors or coaches to achieve college admissions.

At this writing, Loughlin and her fashion designer husband intend to have their day in court. That means that they are trusting the jury system to hear the evidence and determine their fates that, even though they could spend years in prison if found guilty.

Although observers complain about the "vanishing trial," Americans still embrace trials — the notion that a jury of one's peers will fairly determine one's fate. At least, that's what Loughlin and Mossimo are counting on. And it's a fair assumption.

Approximately 150,000 jury trials are conducted in state courts annually, and an additional 5,000 in federal courts, according to the Administrative Office of the U.S. Courts, Judicial Business of the U.S. Courts. Two-thirds of jury trials are criminal trials, while one-third are civil and "other" areas of law (e.g., family, municipal ordinance, traffic).

Clifford Law Offices recently commissioned Willow Research in Chicago to study Americans' perceptions of the courts, the jury system and litigation in the United States. The study, which was conducted in November 2018 with a nationally representative sampling of 1,000 Americans age 16 and above revealed that only about a third (37%) of Americans have confidence in the courts and that younger Americans, in particular, question some of the very tenets of the judicial system.

Gen Z is the newest named generation being born between 1995 to 2015. They are currently between four to 24 years old (nearly 74 million in the United States, approximately 25% of the population). Willow's research found that Gen Z is the most racially diverse generation and the least religious. They are less conservative, yet eight out of 10 describe themselves as "worriers," a significantly higher percentage than any other age group. "It is a generation to which the world appears



TRIAL BASIS

Trials remain relevant, as Lori Loughlin is counting on

By BOB CLIFFORD

somewhat hostile and unforgiving. ... They are active and engaged in the world, particularly around issues that matter to them," the study concluded.

The lack of confidence in the legal system is attributable to many Americans feeling that the courts are "too tangled up in politics," the Willow study found. In fact, a majority of young adults said that "court decisions should reflect public opinion" ... "potentially signaling a long-term threat to the legitimacy of court decisions and decision-makers."

Gen Z needs to realize that despite their prevailing view that the courts have lost their independence to politics, everything at trial happens in public. The public gets to see what is happening. Political corruption trials lay out the evidence. Plea bargains, on the other hand, happen behind closed doors. That's what actress Felicity Huffman decided to do in the Operation Varsity Blues Scandal, which quickly hushed up her role in what she did to get her child into college through a \$15,000 payoff to which she admitted.

Turning to civil trials, an Oklahoma County, Okla., jury in 2015 awarded Todd Beason and his wife a total of \$15 million for injuries he suffered when an oil rig boom from a crane fell on him. The jury verdict included \$6 million for pain and suffering. However, in Oklahoma, a law was passed in 2011 arbitrarily setting a noneconomic damages cap at \$350,000 in all personal injury cases. Therefore,

the judge reduced the jury award on noneconomic damages to \$700,000 — \$350,000 for each of the Beasons — in order to comply with the law.

However, in invalidating the law, a majority of the Oklahoma Supreme Court recently held, "By forbidding limits on recovery for injuries resulting in death, the people have left it to juries to determine the amount of compensation for pain and suffering in such cases, and no good reason exists for the legislature to provide a different rule for the same detriment simply because the victim survives the harm-causing event." *Beason v. I.E. Miller Services Inc.*, Oklahoma Supreme Court, No. 114301 (April 23, 2019).

The Oklahoma Supreme Court remanded the case back to the trial judge with instructions to enter judgment in the full amount of the jury's verdict, relying upon Article 5, Section 46, of the Oklahoma Constitution that provides that the legislature shall not pass special laws affecting certain subjects.

Trials must remain one of the stalwarts of our legal system. If the public trial vanishes, so does the public perception of the courts for all generations. CL

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