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The Future of Litigation Research: A Human vs. Machine Mock Trial

AND MORE!

dri Association of Lawyers Defending Business

The Future of Litigation Research

by Byron Reeves and Leo Yeykelis

> "Help is on the way with software that can apply AI best practices to jury research."

A Human vs. Machine Mock Trial

On March 26 in Nashville, TN, we collaborated on the first live "man vs. machine" competition between a full-blown human mock jury and a simulated AI jury analysis of the exact same case materials. Attorneys attending the DRI, Association of Lawyers Defending Business, 2026 Advanced Litigation and Trial Strategies in Retail & Hospitality Seminar gathered to watch lawyers and an actor playing the plaintiff present a fictitious civil case. Afterward, the audience watched, via closed circuit video, a human jury of Nashville citizens deliberate, render a verdict, and provide feedback on the trial. The mock jury deliberation was designed and coordinated by JuryConnect, experts in state-of-art human jury simulations.

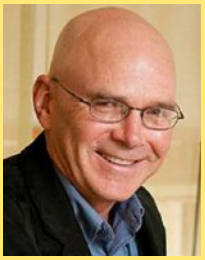
While the human jury was deliberating, two scientists from Viewpoints.ai with long experience in behavioral research, quickly created a panel of AI jurors using new jury simulation software. The simulated jurors then evaluated the exact same trial materials and immediately rendered their verdict and gave feedback on the case themes they thought most influenced their votes.

We were headfirst into the future of litigation research, and the results were fascinating.

WHO WON?

Ties are boring, but for this tie, there was some excitement. The human jury initially found 7 to 4 for the defendant (Figure 1), and if forced to render a financial reward, would have awarded the plaintiff a bit over $50,000. The AI simulation had 100 jurors, each created using a separate large language model to process the case materials. And similar to the humans, the different combinations of AI jurors found 7 to 5 for the defendant, with an award of $200,000. (The AI software was able to create and test 10,000 different jury combinations – computers are fast! – and produce a distribution of outcomes shown in Figure 2.) The most likely outcome, found in 23% of the simulations, was the one that most closely matched the humans.

So, takeaway #1 – the humans and AI were generally in agreement despite a 100X difference in the amount of time and a 10X difference in the amount of money needed to discover each result.



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Leo Yeykelis, PhD, is CEO of Viewpoints.ai and is an expert on AI technology, user experience research, and human simulation.

Figure 1

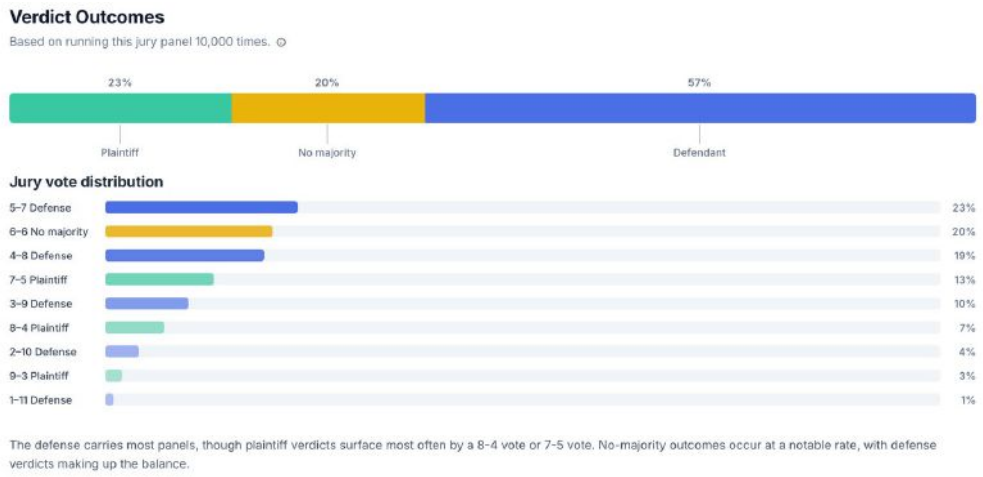

Figure 2

But jury simulations are valuable for much more than a prediction about the jury vote. Simulations provide an opportunity to discover important themes that resonate (or not) with juries, to analyze which specific jurors might be more or less willing to side with the defense or plaintiff, and to quickly test different trial and settlement strategies.

We'll mention those results, but first a summary of the case used in the competition:

> Penny Plaintiff traveled to Nashville for her bachelorette party and, while at Bull's Bar, signed a waiver and rode the mechanical bull, where she was thrown off and suffered an ankle injury that worsened over the evening. Later, while leaving for another bar on a pedal tavern, she suffered a far more serious leg fracture when David, a visibly intoxicated patron who had been served two beers at Bull's despite obvious signs of intoxication, sideswiped the vehicle. At trial, Penny seeks pain and suffering and punitive damages, while the key issues are Bull's potential dram shop liability, punitive damages, and whether her inability to walk unassisted at her wedding was caused by the bull incident or the later crash.

After hearing details of the case, the human jurors were questioned by the moderator about their decisions in a one-hour session after the deliberation and vote. That session produced noteworthy comments including, for example, disclosures from jurors that they really wanted to see surveillance video from the bar, that they questioned whether David was really intoxicated (maybe he just stumbled), and whether some blame should be shared by the pedal tavern operator.

The counterpart deep dive into AI juror decisions included several opportunities to learn more about what was behind their decisions. Each of the jurors were available to chat with researchers about their deliberations. You could choose to ask a specific juror why, for example, she supported the plaintiff or what would have changed her mind to favor the defense. And you could keep the conversation going as long as it was useful. (Three of the jurors are shown in Figure 3, clicking on them opened a chat window for a conversation).

Ties are boring, but for this tie, there was some excitement.

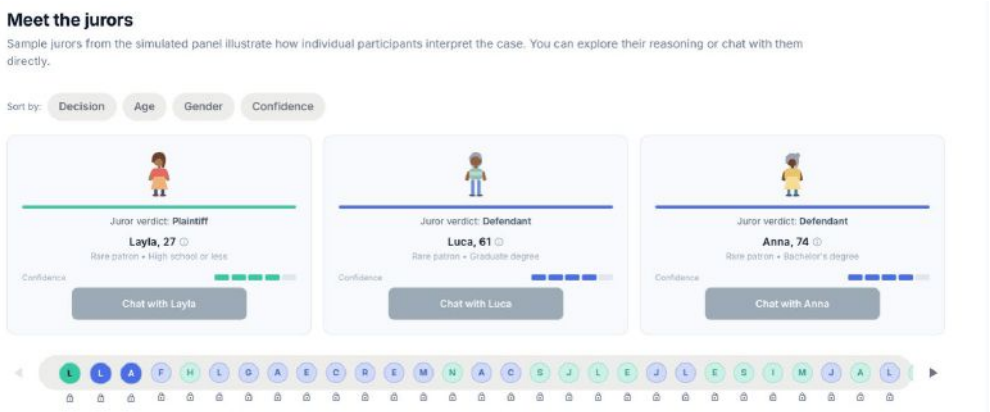

Figure 3

Additionally, there was quantitative information available about exactly which jurors (from the larger group of 100) were more or less likely to support the plaintiff or defense. Figure 4 shows, for example, how age, gender, education, race and personal experiences bars affected how jurors decided. In addition to providing information that helped to understand a juror's decision, this information could also be used, almost in real time, to aid attorneys in the jury selection process.

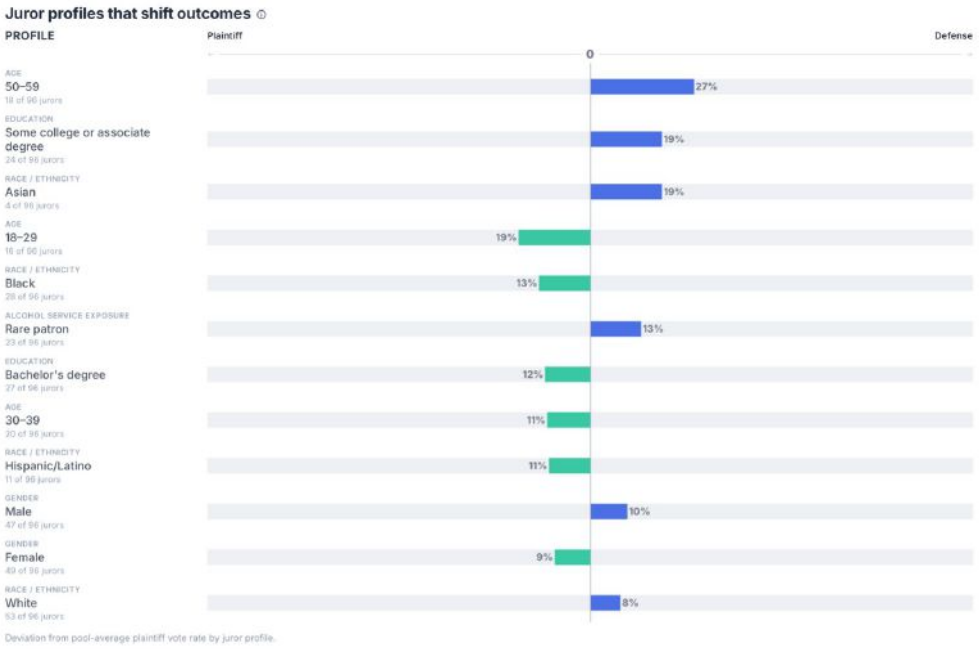

Figure 4

AI juror decisions could also be analyzed with respect to the trial themes that most resonated in decisions for the plaintiff vs defense. Figure 5 shows some examples: if you thought the plaintiff was served while visibly intoxicated you were about 50% more likely to find for the plaintiff; and if you thought that the warning signs posted in the bar were adequate, you were 35% more likely to find for the defense.

In summary, the AI jurors were fast, economical and they produced useful themes for case diagnostics. And not shown at the conference event, the AI jurors could also be run through their paces iteratively as the trial progressed, facilitating settlement decisions and accommodating

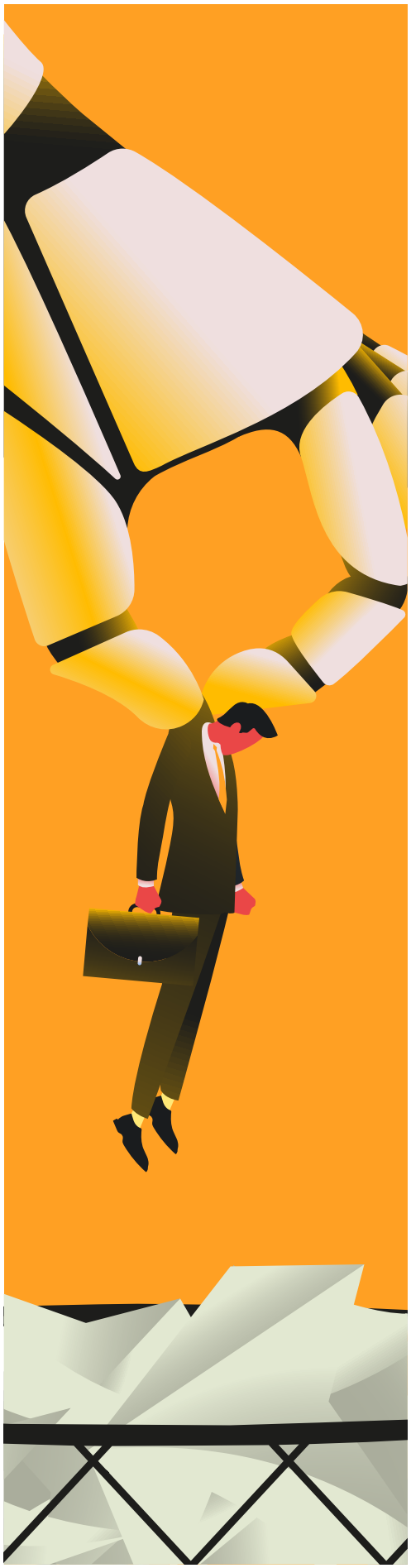

Figure 5

new case information as it became available.

After the human and AI jury presentations, the lawyers in attendance had good and hard questions.

CAN AI UNDERSTAND NON-VERBAL COMMUNICATION?

Yes. The AI models could examine videos that contain gestures, facial expressions and other emotional content. And the AI personas were trained to respond like a human might regarding the trustworthiness of the person in the video, and they were imbued with a human-like level of attention and memory.

COULD THE AI JURORS DELIBERATE?

Yes. Selected jurors in the DRI case study could be grouped and asked to interact much like a real jury or focus group. They responded to what other AI personas said (and they often disagreed!).

HOW DO I KNOW I CAN TRUST AI RESPONSES?

An interesting point was made about AI simulation being another "data point" to supplement what can be learned from a human mock trial. AI simulations can provide valuable directional guidance about expected trial outcomes and the themes that define a case, often as important as asking them to be an oracle for the future.

WHAT DOES AI ADD BEYOND HUMAN MOCK TRIALS?

Added value includes a wider range of themes that define a case, information about ideal juror profiles, and a way to test variants of presentations in opening and closing statements, trial strategies and exhibits. And the tests can be run as many times as desired throughout a trial.

WHAT IS THE STATE OF AI SIMULATIONS GENERALLY?

Simulating jurors is new. And while the DRI example is an important first test, more are certainly needed. AI simulations of humans in related areas, however, are not new and there are well documented, rigorously evaluated and successful trials with simulations in diverse areas. They include simulations of consumers in marketing and economics research, learners in school environments, managers in organizations, and therapists and medical practitioners in clinical settings. All of these areas share underlying AI technology that lends support to the use of AI to study litigation. And as the foundation models on which the simulations are based improve, and as best practices improve for using the models in law, confidence and value will grow accordingly.

HOW DO I EXPERIMENT WITH AI MOCK JURIES?

Creating an AI jury, while easier than the human counterpart, is more involved than merely typing prompts into ChatGPT. There are best practices that have been learned across a large research literature in human simulation. Issues to consider include best strategies for sampling AI jurors, methods to insure that AI jurors represent their assigned venues, insuring that jurors reflect on case materials the same way humans would (e.g., without perfect attention and memory, and with expected compromises based on cognitive and implicit biases), ensuring simulated jurors are up to date on local news and sentiment, how to assemble the best collections of legal information (contentions of fact, opening and closing statements, expert witness testimony) as well as extra-legal material well known to influence juries (e.g., video of witnesses and counsel that show personality, appearance, persuasive styles), and choosing the best LLMs for the available case materials (e.g., some LLMs are better at processing video, some better with elaborate narratives, some better able to accurately reflect human psychological biases).

Help is on the way with

software that can apply AI best practices to jury research. And we will all be learning together as we lean into the new world of AI. But one thing seems certain – the future of litigation research has changed.