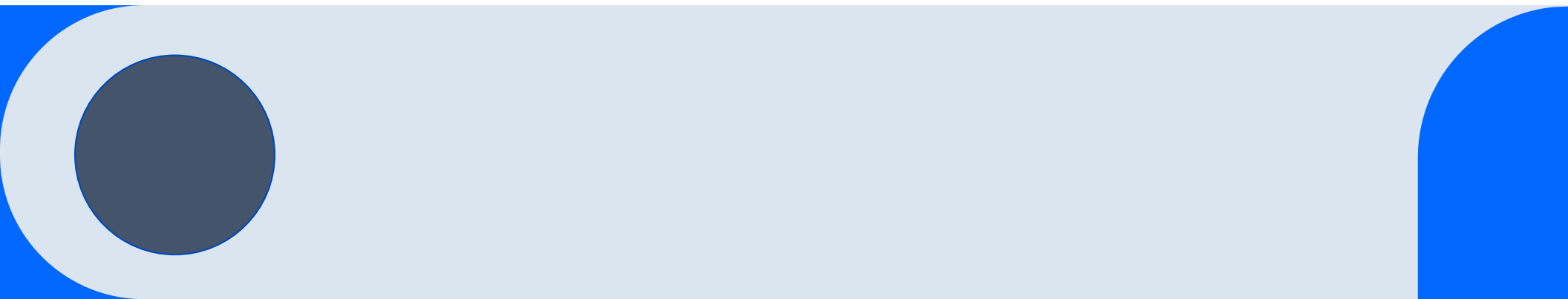
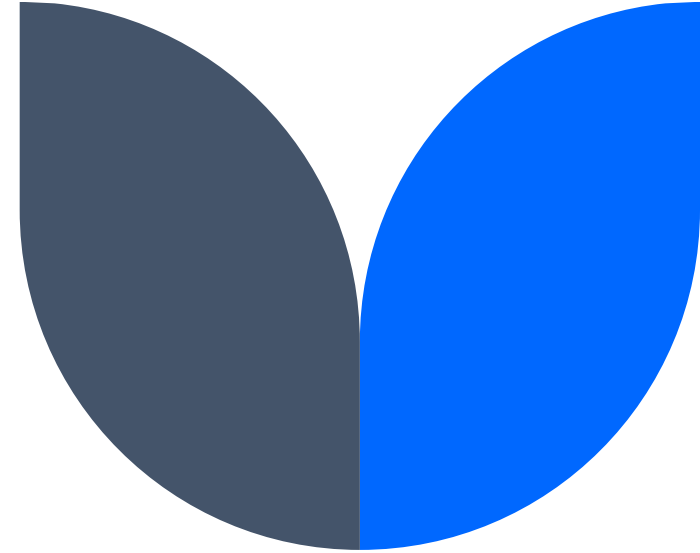




# LOST IN TRANSLATION?

Understanding  
*Millennial Speak*  
in ADR Settings



# GENERATIONAL CATEGORIES

**Silent** – (1928 to 1945)(95 to 78)

**Baby Boomer** – (1946 to 1964)(77 to 59)

**Generation X** – (1965-1980)(58 to 43)

**Generation Y- Millennials** – (1981-1996) (27 to 42)

**Generation Z** – (1997 to ?)(26 to ?)

**What's Next?**

# WHICH ARE TRUE STATEMENTS?

1. Younger jurors are no more or less pro-plaintiff or pro-defense leaning than older generations.
2. Age is not a big factor in verdict decisions.
3. Younger jurors are much more cynical than older jurors.
4. Younger jurors are more likely to agree that it's "common, not unusual, for companies to put profits before be honest and fair."

# WHICH ARE TRUE STATEMENTS

5. Jurors age 50 and above likely agree that it's common not usual for companies to put profits before being honest and fair.

6. The majority of younger jurors agree that "it's normal and just business, not wrong or unethical, for companies to cover up wrongdoing or bad information that would hurt the company if the public found out about it."

# WHICH ARE TRUE STATEMENTS?

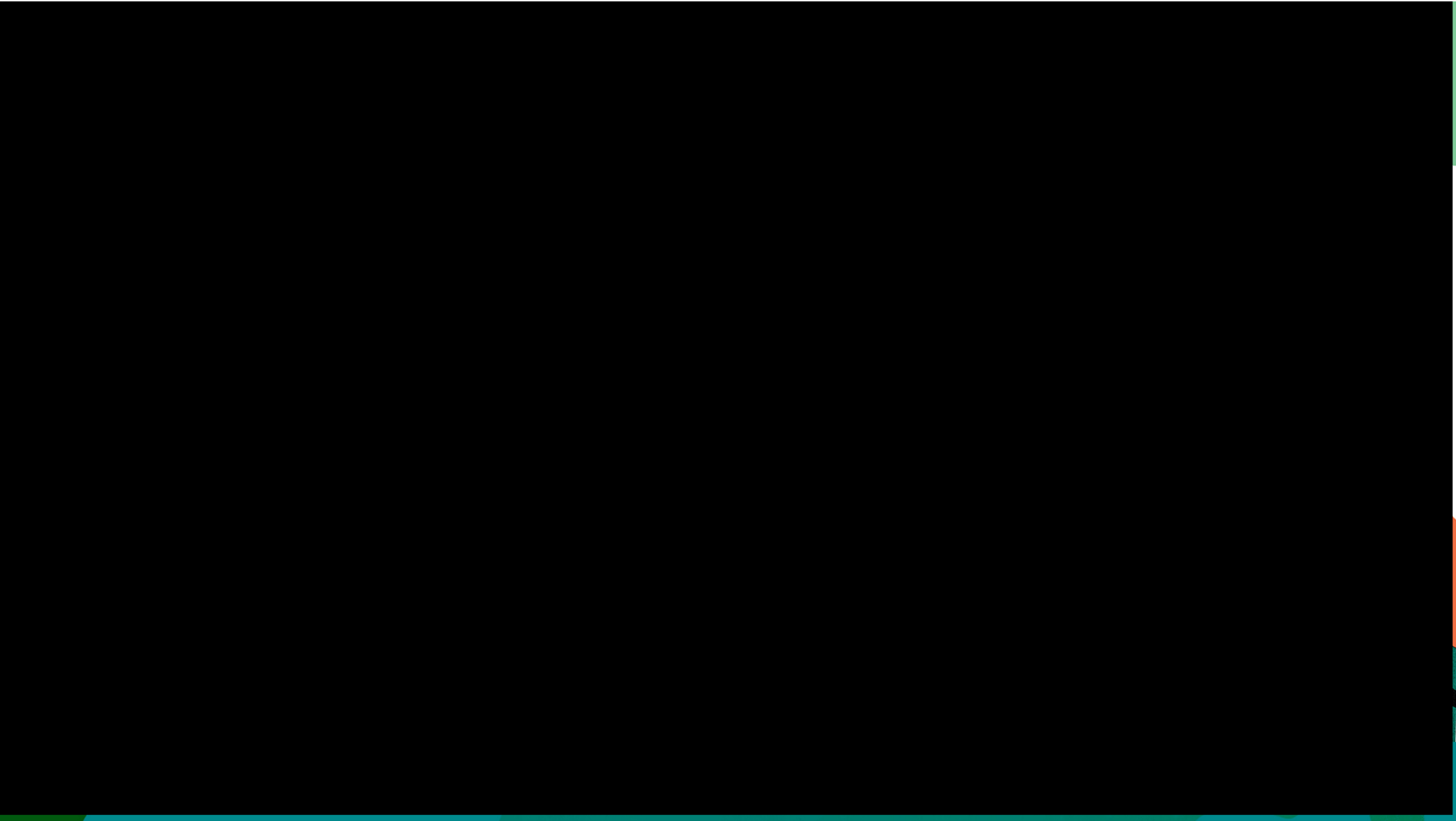
7. The majority of older jurors agree that "it's normal and just business, not wrong or unethical, for companies to cover up wrongdoing or bad information that would hurt the company if the public found out about it."
8. Younger jurors are slower than older jurors to believe that wrongdoing happens.
9. Younger jurors are slower to accept wrongdoing as an inevitable reality without being shocked or upset by it..

# WHICH ARE TRUE STATEMENTS?

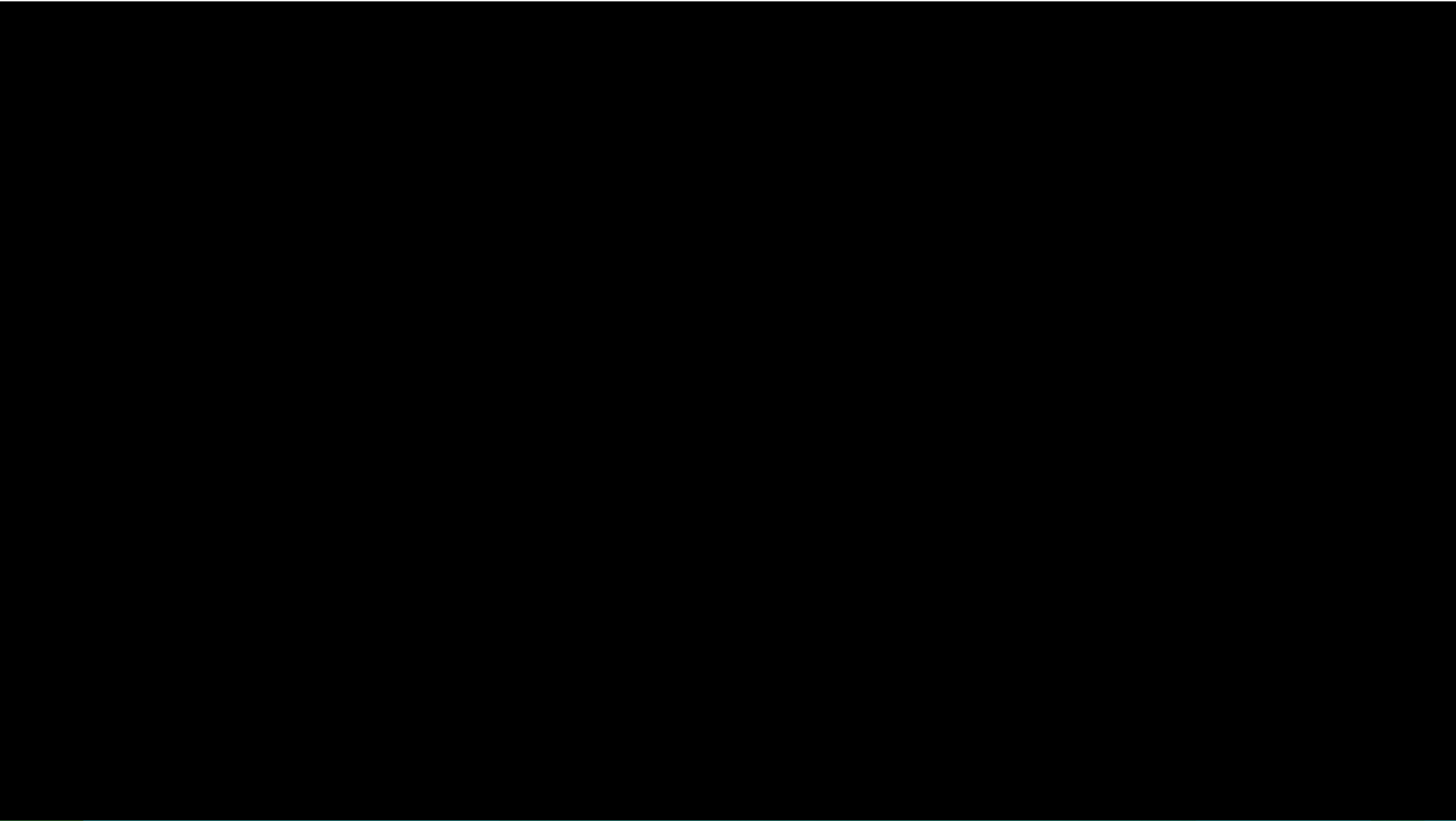
10. Younger jurors are much more likely to agree that it's common" for drivers to drive distracted.
11. Younger jurors are four times more likely than older jurors to find distracted driving "unforgivable" than older jurors.
12. Younger jurors are much less likely to believe that "the minimum government safety standards are safe enough".

# True False Test Results

All “True” except for #2

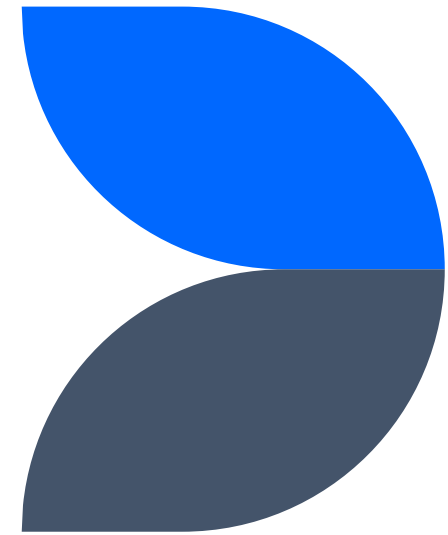






# The “Story Model” Presumptions

1. People make sense of evidence by imposing a chronological narrative organization on it.
2. People are “active information processors”
3. People rely heavily on their existing knowledge and beliefs in creating their stories, using them to fill in gaps in the evidence, resolve contradictions, and determine plausibility



# Arbitrator's & Mediators Sources of Information for Constructing Their Story

1. Case-specific information presented at hearing or session
2. Existing knowledge and beliefs
3. Cultural competency & effective communication-arbitrator/mediator, counsel, witnesses

# Goal: Arbitrator or Mediator Adopts Your Story Line

## Criteria for Success – Craft a Story that has:

1. **Coverage** – Accounts for as much evidence presented as possible.
2. **Coherence**– Consistent, plausible and complete (no gaps in the causal chain)
3. **Uniqueness** – So unique it creates confidence that it is correct

# Characteristics of the Millennial Generation

1. Values meaningful motivation
2. Challenges the hierarchy status-quo
3. Places importance on relationships with superiors
4. Intuitive knowledge of technology
5. Open and adaptive to change

# Characteristics of the Millennial Generation

6. Places importance on tasks rather than time
7. Passion for learning
8. Openly receptive to feedback and recognition
9. Free-thinking and creative
10. Value social interactions in the workplace

# Be Aware of Millennial Tendencies

1. May consider themselves experts
2. Expect answers to questions to be available immediately
3. Jurors may perform own research despite court instructions
4. Hold defendant to higher standard than the industry standard
5. May “buck the trend” to suit their perception of “right”
6. High expectation of use of technology to communicate/decisions

# The Significance of “Safety” to Millennials

- Millennial jurors consider “Safety” as one of the most important factors in making their determinations.
- Studies show that 81% of Millennials “strongly agree” that a manufacturer has a duty to make its product 100% safe for all customers, not reasonably safe which is the law in most jurisdiction, but 100% safe.
- Nearly 88% of Millennials agree, to some capacity, that when it comes to safety, companies should be held to a higher standard than what the government requires



# Reasons Why Millennials Punish

1. Failure to admit errors (responsibility)
2. Failure to express sympathy and concern for the plaintiff (remorse)
3. Counsel or witnesses are insensitive or rude at trial (belittle or offend)
4. Counsel or witness violate local values/mores (integrity)
5. Failure to address pre-existing negative beliefs, attitudes, and opinions (transparency)

# Accountability with Millennials

Millennials are more sensitive to discrimination in the workplace:  
69% of Millennial survey participants claim to have witnessed or heard about discriminatory behavior or incidents at work.

- Racial Bias – 27%
- Gender Bias – 23%
- Sexual Orientation – 21%

# Understand Best Practices in Workplace

- 1) Define what is unacceptable
- 2) Investigate immediately
- 3) Demonstrate consequences

# Understanding Millennials And Impact on Mediation

- Millennials as a Parties
- Millennials as Counsel
- Millennial as Neutral

# Characteristics of Gen-Z

## Jonathan Haidt Social Psychologist\*

- Extraordinary high rates of: anxiety, depression, fragility
- Attributed to Gen-Z's use of social media in a culture that emphasizes victimhood

How will this translate in the work-force?

What can we anticipate in future litigation?

How can we advance our skills in ADR?

\**The National Crisis of Gen Z.* Wall Street Journal Dec. 31, 2022

\*Haidt, Lukianoff. *Coddling of the American Mind: How Good Intentions and Bad Ideas Are Setting Up a Generation for Failure* (2018)

# QUESTION & ANSWER