



Sympathy in the Courtroom: What Defense Attorneys Should Know

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The courtroom is intended to be governed by facts, evidence, and the rule of law. Yet juror decision-making does not occur in a vacuum; emotional responses, particularly sympathy, may influence how evidence is received and applied. Although it is a natural human reaction, unchecked sympathy can distort deliberations and affect outcomes in civil cases. For defense counsel, understanding and managing this dynamic is essential to preserving a fair trial.

Court impartiality is a cornerstone of the legal system. Jurors are instructed to evaluate the evidence presented, apply the law as given, and make fact-based decisions. However, sympathy may cloud judgment and impact how jurors interpret facts, credibility, and liability, leading to decisions driven more by emotion than by reason. Research shows that emotionally charged evidence can influence verdicts by igniting and reinforcing jurors' feelings.^{1,2}

Sympathy is most likely to arise in cases involving catastrophic injury, wrongful death, or particularly vulnerable plaintiffs. This could lead to bias against the defendant and to jurors entering deliberations with an emotional frame that favors the plaintiff, thereby undermining impartiality/fairness and making it difficult to achieve a just verdict.

How Sympathy Affects Damages

In civil disputes, damages must reflect the actual harm and applicable legal standards, but sympathy can expand jurors' view of what compensation feels "fair." Jurors may use damages to resolve emotional tension and feel a sense of justice for the plaintiff. This dynamic could lead to awards exceeding what the evidence and law support, as well as decreasing trust in the court's ability to administer balanced justice.²

The legal system is structured to protect the rights of both plaintiffs and defendants through defined burdens of proof and procedural safeguards. When sympathy drives courtroom decision-making, those safeguards can erode, shifting the focus from whether legal standards are met to whether a potential victim deserves compensation.

Balancing Advocacy and Emotions

While empathy and sympathy both involve recognizing someone else's emotions, empathy is about understanding them, but sympathy adds a level of care or concern that can inflate damage awards.

For defense attorneys facing civil cases, the objective is not to eliminate emotion from the courtroom but to manage it. Effective advocacy acknowledges harm and suffering while keeping jurors anchored to the evidence, the legal elements, and the jury instructions. Allowing sympathy to dominate trial strategies and decision-making may compromise the attorney's effectiveness and the defendant's right to a fair trial.³

Demonstrating appropriate remorse and empathy for the plaintiff, without conceding liability, helps defendants improve credibility, preserve reputations, and avoid excessive damages. Jurors are more receptive to parties that appear accountable yet measured and committed to meaningful change. This defense approach channels emotion without allowing it to dictate trial outcomes, enabling deliberations to remain focused on a balanced examination of the facts and leading to a fairer verdict.⁴



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Empathetic Corporations

Corporate defendants must overcome additional challenges, including preexisting skepticism shaped by media narratives, public sentiment, and perceptions of institutional indifference. In this anti-corporate environment, expressions of empathy carry heightened strategic importance; they can influence not only juror perceptions in the courtroom but also broader reputational considerations.

Corporations should demonstrate empathy in ways that feel authentic, deliberate, and action-oriented. Jurors are more likely to respond positively when companies acknowledge the human impact of an incident while clearly reinforcing their commitment to safety, accountability, and improvement. This approach strengthens credibility without shifting focus away from the evidentiary standards required to assess liability.

Importantly, effective corporate empathy is conveyed through consistent messaging and conduct: what the company says, how witnesses testify, and the steps taken since the event. When these elements align, they signal corporate responsibility without overreaching into admissions that could distort the legal analysis.

By coupling measured expressions of care and remorse with evidence of corrective action, corporate defense teams can counteract negative assumptions and present a more balanced trial narrative. This positions jurors to evaluate the case on its merits rather than on emotional reactions to the plaintiff's perceived suffering and the defendant's perceived character, supporting more objective deliberations and more predictable outcomes.⁵

In Conclusion

It is possible to show compassion in the courtroom while protecting the impartiality and integrity of the justice system. The critical question is whether sympathy drives juror decision-making.

Defendants must anticipate emotional dynamics and structure trial strategies to guide jurors back to the facts of the case and the governing legal standards. By acknowledging sympathy for the plaintiff and reinforcing jury instructions, defense attorneys can preserve fairness and improve results.

Originally published by First Court in 2024; updated/republished by IMS Legal Strategies in 2026. [Read about our strategic union here.](#)



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