

Potential Impact of COVID-19 on Juror Decision-Making – Part II

July 7, 2020



Continuing Education

Credit Information

This program is approved for CLE credit in the following states:

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- **Illinois** – 1.5 general credit
- **Indiana** – 1.5 general credit distance credit
- **New Jersey** – 1.8 distance credit
- **New York** – 1.5 professional practice credit (transitional and non-transitional credit, approved for newly admitted attorneys)
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- We have applied for credit in the following states: Delaware, Iowa, Minnesota, and Virginia.

Please note credit is not guaranteed until approval is received, we will notify you if credit is not approved in any of the above listed states.

Certificate of Attendance

To receive your certificate of attendance you must do the following:

- Watch at least **90** minutes of the webinar
- Listen for and record the two code words given during the program and enter them in the final ending survey
- If you request CLE credit, you **must** provide your bar license number for any states in which you want to receive credit

If the following requirements are met, you will receive your certificate of attendance within 30 days after completion of the program. We will report attendance directly to the states in Pennsylvania, Indiana, Illinois, and Texas.

For any questions regarding CLE credit, please contact **Dionne Brooks** at Dionne.Brooks@faegredrinker.com.

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Moderators and Panelists



Kenneth A. Murphy
Moderator

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Panelist

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Jeffrey Jarman, Ph.D.
Panelist

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Overview



1. Changes in Jury Makeup



2. Juror Behaviors and Attitudes



3. Strategies for Jury Trials During and After COVID-19



4. Questions

Changes in Jury Makeup



Who Might Not Be On Your Jury: Demographic Factors



Older jurors



Those who have suffered significant financial hardship



Those without the technical means

Who Might Not Be On Your Jury: Attitudinal Factors



Mask naysayers









Those who are too afraid to go out








Juror Behaviors and Attitudes



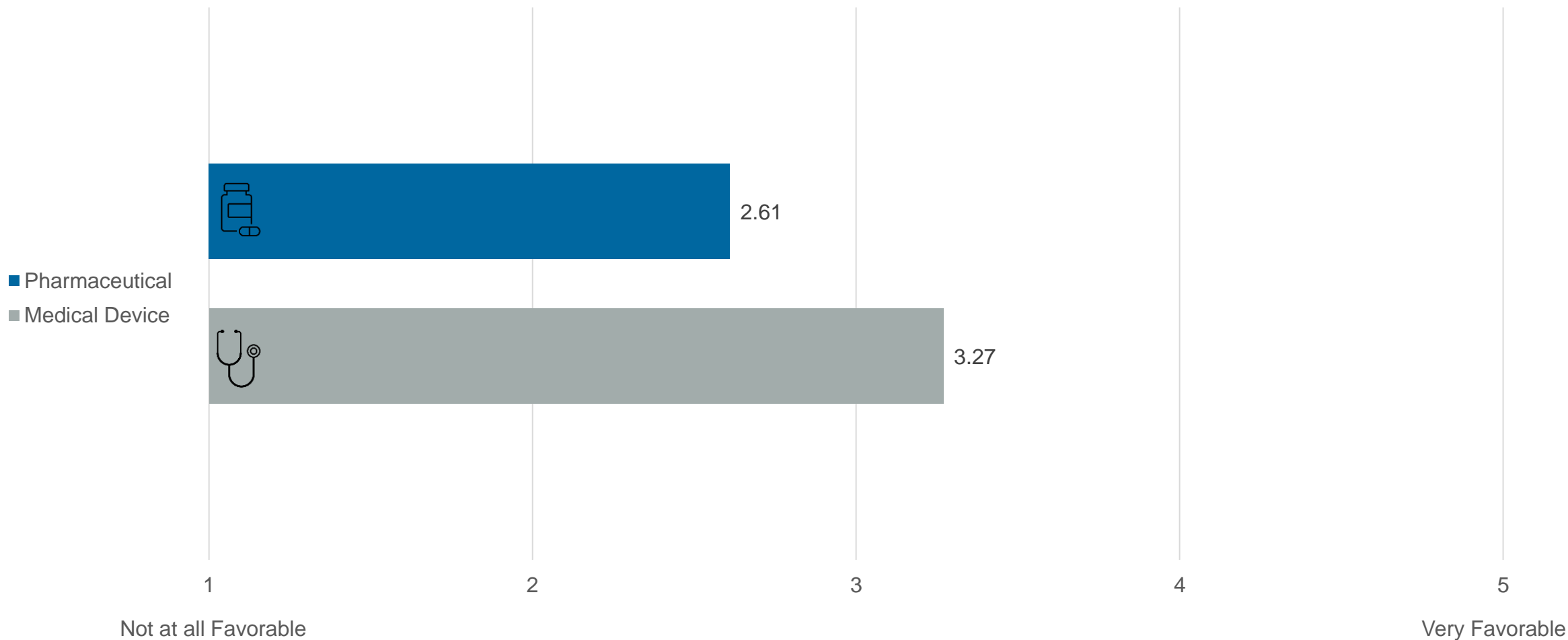
Change in Risk Attitudes and Behaviors: 2011 to 2020

| | Perception of Risk | Perception of Benefit | Likelihood to Engage |
|---|--------------------|-----------------------|----------------------|
|  Donate blood | ↑ | ↓ | ↔ |
|  Donate a Kidney | ↑ | ↔ | ↔ |
|  Participate in a Clinical Trial | ↑ | ↑ | ↔ |
|  Take Allergy Medicine | ↑ | ↑ | ↑ |
|  Have Knee Replacement | ↑ | ↑ | ↑ |
|  General v. Local Anesthesia | ↑ | ↑ | ↑ |

Comparison of Medical Risk Attitudes and Behaviors (2020)

| | Perception of Risk | Perception of Benefit | Likelihood to Engage |
|---|---|---|---|
|  Taking an Experimental Vaccine for COVID-19 |  |  |  |
|  Taking medication treating dangerous condition with risk of serious side effect |  |  |  |

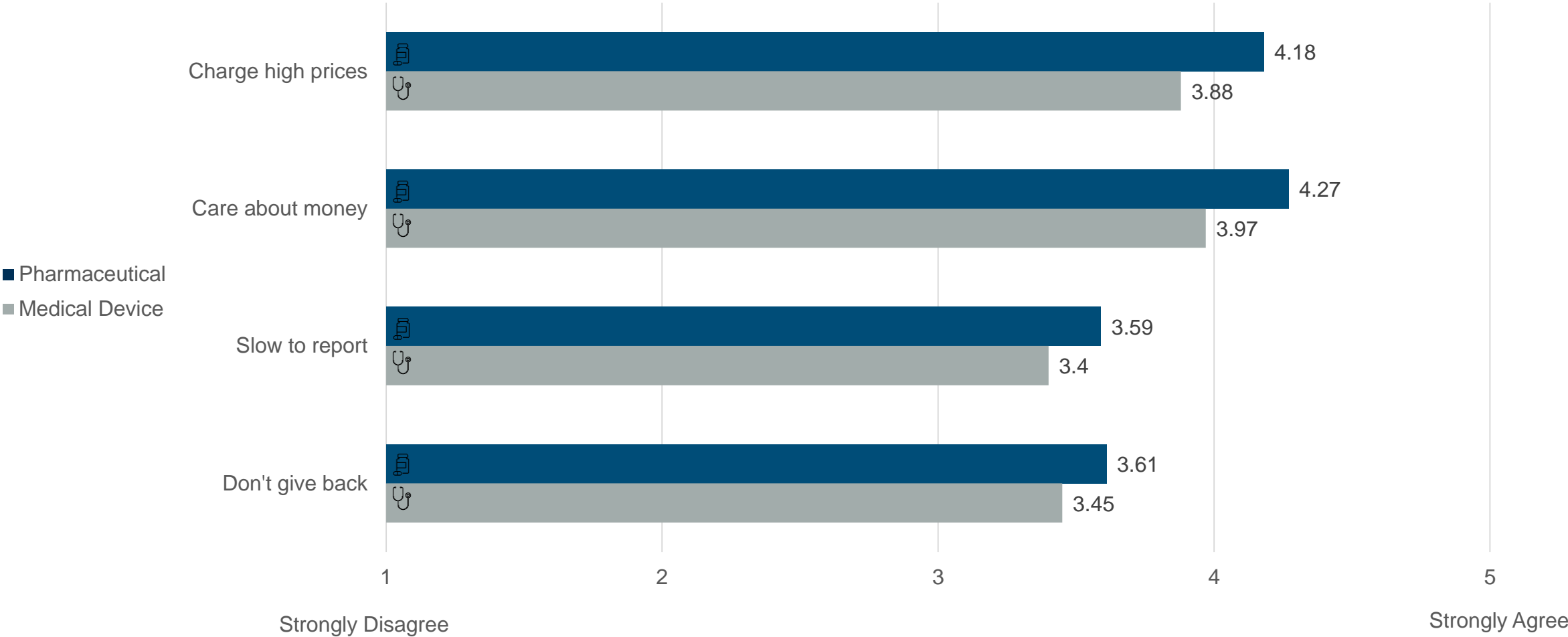
Comparison of Overall Perceptions of Drug and Device Companies



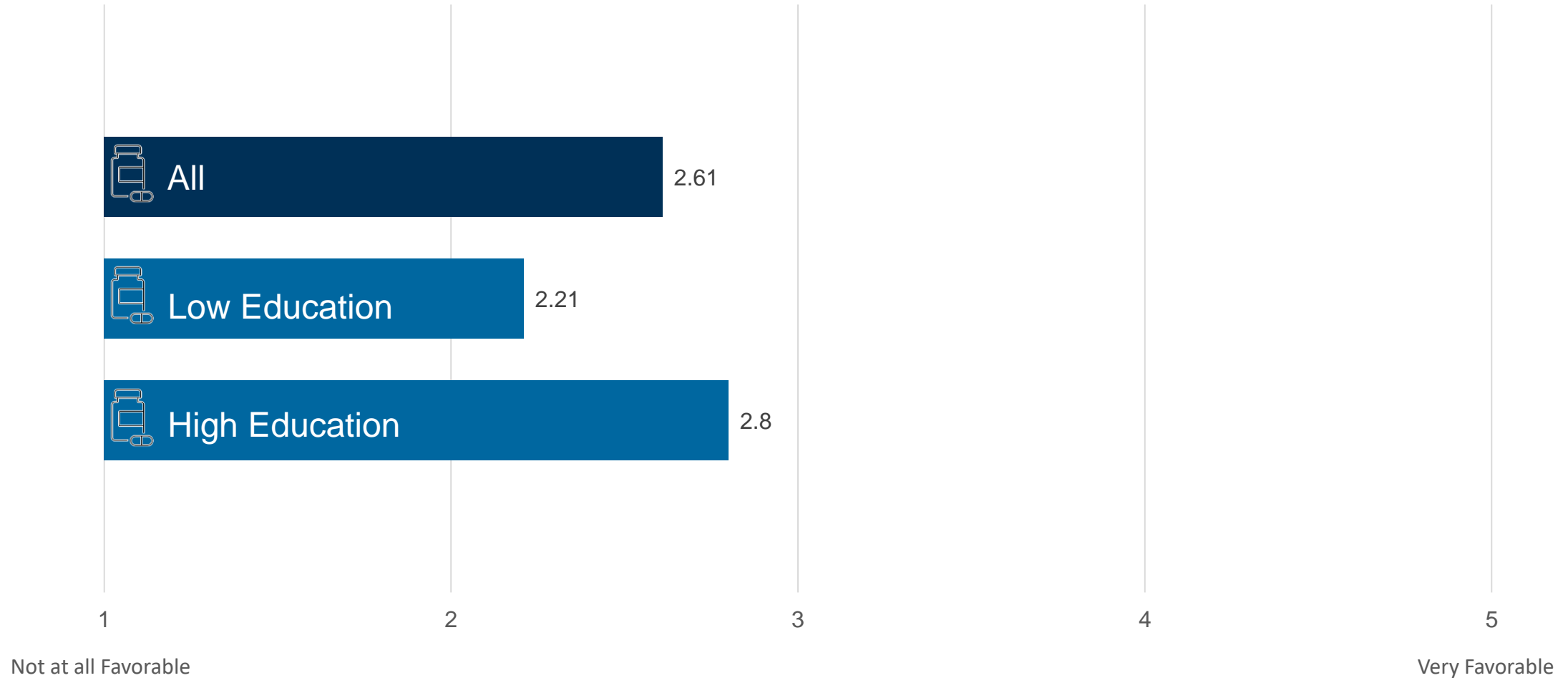
Attitudes Toward Drug and Device Companies

- Survey respondents asked to evaluate medical device companies and pharmaceutical companies in four categories:
 - Charge unreasonably high prices
 - Care more about making money than helping patients with health problems
 - Slow to report negative clinical trial results
 - Give back to local communities

Comparison of Attitudes Toward Drug and Device Companies



Effect of Education on Perceptions of Pharmaceutical Companies



The Juror in 2020



Impatience for what they view as wasted time



Effects of PTSD



More talkative jurors



Shift in priorities and what we value

Shifts in Attitudes and Opinions



Sympathy for those who have suffered economic loss



Views of medical damages



Praise for frontline workers



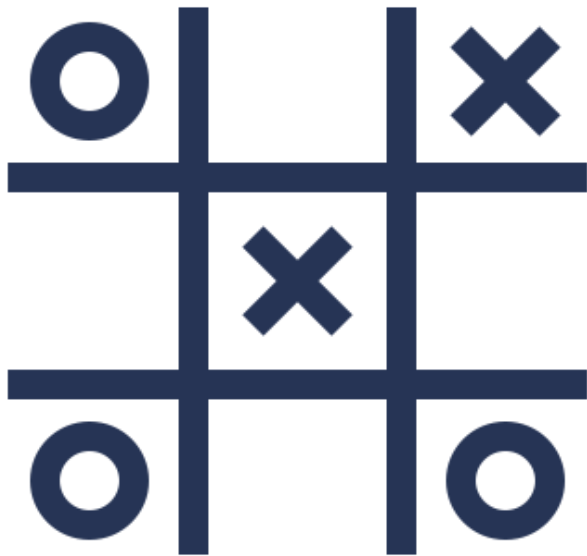
Support for small businesses



Trust/distrust of government



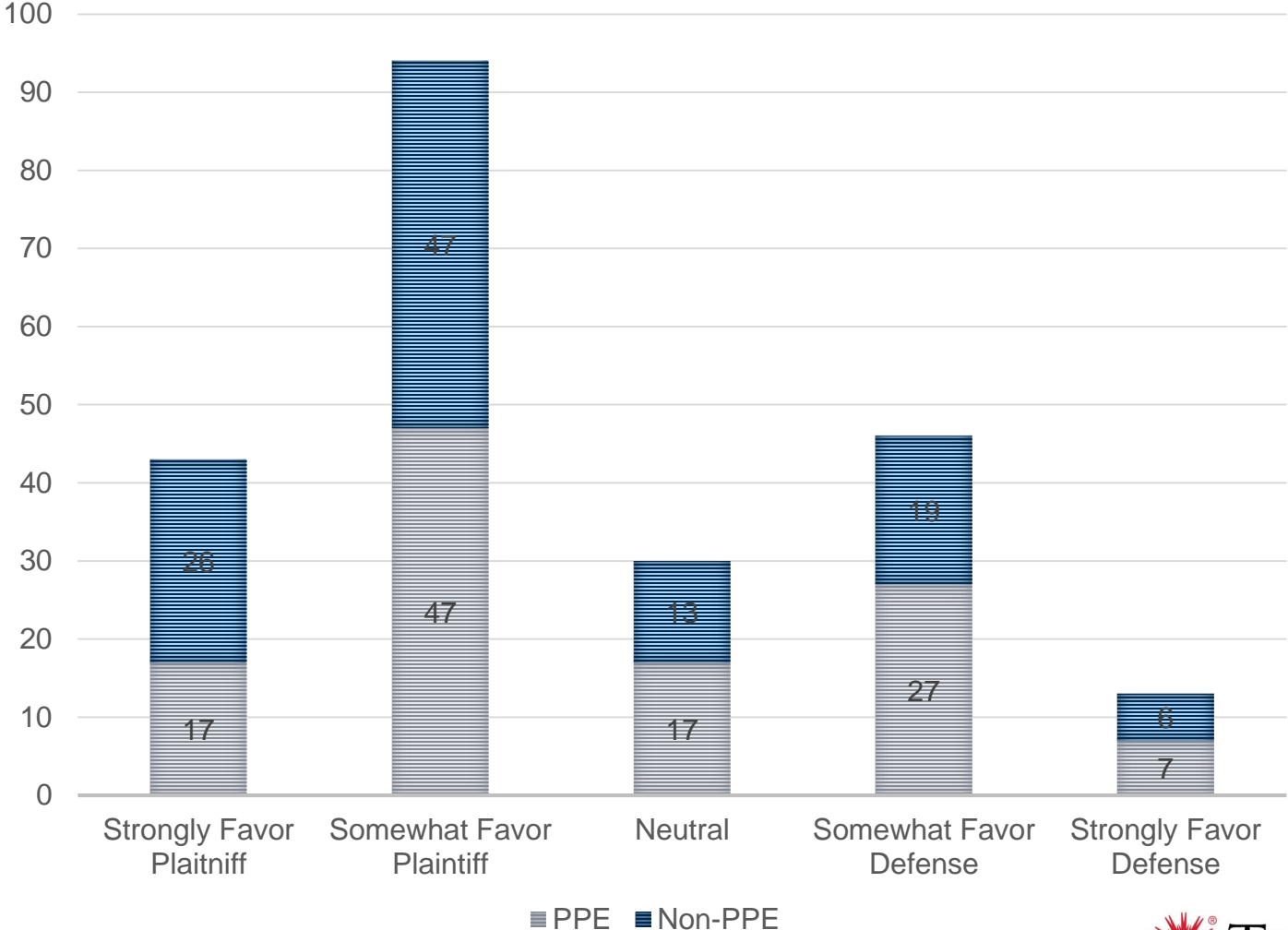
Trust/distrust of science



Strategies for Jury Trials During and After COVID-19

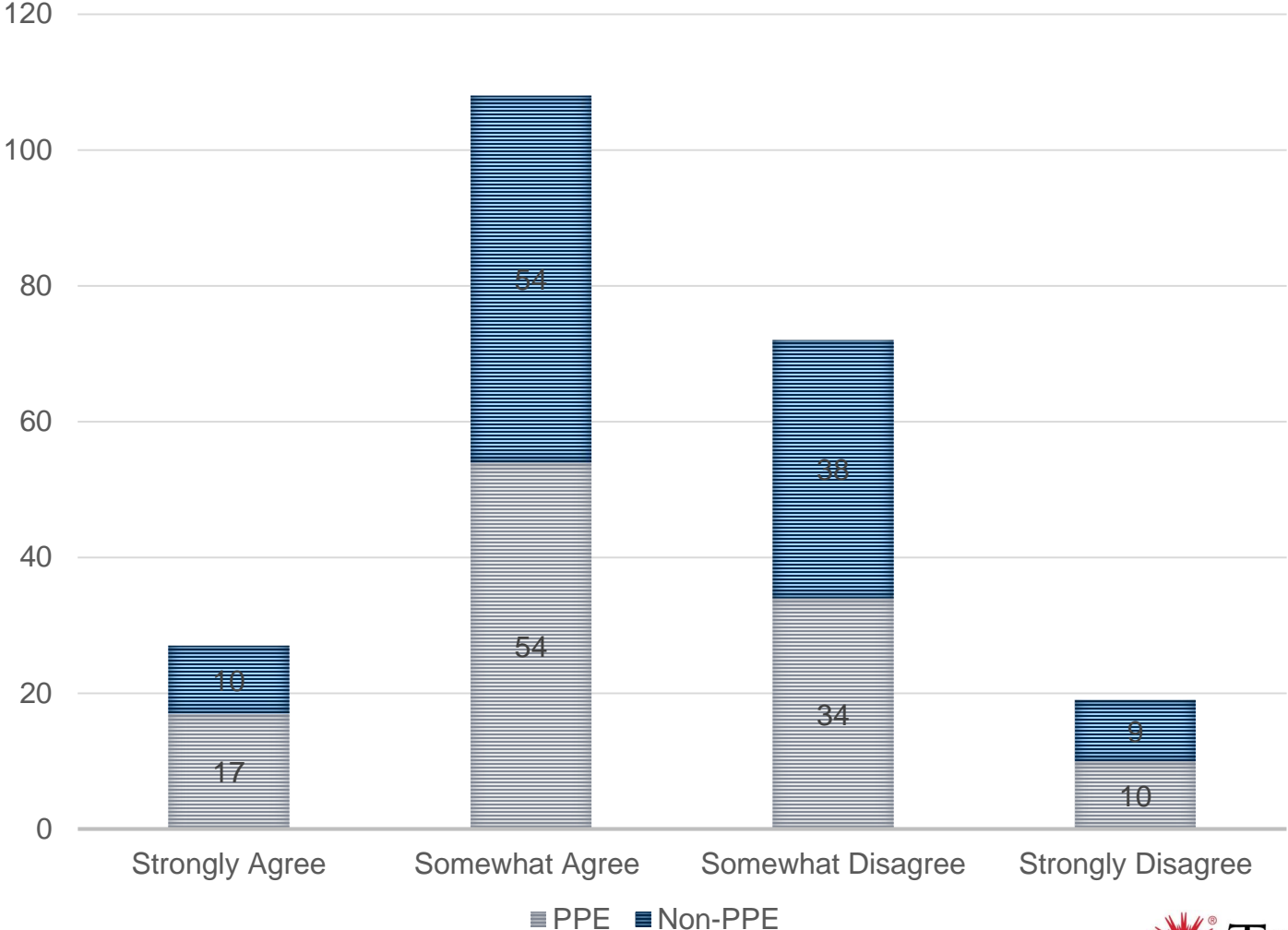
Should You Share COVID-19 Efforts

LEANING IN THE CASE



Should You Share COVID-19 Efforts

IS EMPIRE A GOOD COMPANY



Trial Strategies

1. Adapt your message to address potential changes in risk assessment
2. Addressing perceptions of drug and device companies
3. Be mindful of the changes in jurors' mindsets
 - Be more efficient
 - Be mindful of perceptions of damage awards
 - Watch out for attitudes toward experts and government
 - Use process graphics and verdict mapping to give direction and to arm talkative jurors

Voir Dire Strategies

1. Less voir dire—will need to be more efficient with your questioning.
 - Request written questionnaire to allow for more information gathering without in person exposure.
2. Less likely to allow cause challenges (or hardship)
3. Use COVID as a surrogate for questions about health issues.
 - Mask wearing
4. Find these jurors (high risk—maybe good but maybe terrible)
 - Depressed and anxious people
 - Angry people or see themselves as victims
 - People who suffered or had a loved one suffer from COVID-19



Questions?

Thank You For Attending!

- ✓ Please take a moment to complete our post-event, pop-up survey.
- ✓ Download the presentation slides from the Handouts list.
- ✓ Your certificate of attendance will be sent via email within 30 days after completion of the program. Only those who have viewed at least 90 minutes of the webinar and responded to the ending survey with the two code words will receive a certificate of attendance. If you met these requirements, we will also automatically report your attendance directly in the following states: Pennsylvania, Illinois, Indiana, and Texas.
- ✓ If a question you asked did not get answered during the live webcast, one of the presenters will answer your question via email.