

Before I sat down to write, I tried to remember the angriest person I ever saw. Before you keep reading, think about it with me for a second. I kept recalling viral videos of people in public places screaming at other people for no discernably good reason. If you've ever seen one of these viral videos, then you know how they are all somehow memorable as well as forgettable. The anger from the person in the video is always disproportionately overblown. Nobody should get that angry about their coffee, their French fries, or some other perceived slight in the service industry. We know it when we see it and we recognize it immediately. Then our judgment engine turns on—or maybe it's just mine. And isn't the first judgment we make one about credibility? Credible anger fits the situation, but these kind of situational fits aren't credible. And what is the result of seeing this display of anger? Well, I can't think of a time I ever took the side of the fit-thrower. But what happens if we see anger that matches the context? Anger that is real and isn't overcooked? Could an angry lawyer lead us to her chosen verdict, even if it's true of us all that we don't usually *seek out* angry people to follow?

This is the question that a study with mock jurors sought to answer.<sup>1</sup> It won't be spoiling the end from the beginning to say that most of the results here won't surprise you. Terrible things have been done in the world and continue to be done because of the persuasive power of angry people. However, there is still some nuance to explore here and a surprise or two to uncover. Rather than flesh out the laundry lists of methods the researchers employed, I think it would be more fruitful for our uses to talk about the theories of emotion and persuasion that undergird the study. I will follow that with a list of some of the study's conclusions. The two principal theories are that emotions can influence behavior through two mechanisms. The first is called "emotional contagion" and the second is called "social information."

"Emotional contagion refers to how one person could 'catch' another's emotions through mimicry and feedback."<sup>2</sup> The authors point out how much of human behavior is often mimicry and emotional contagion is yet another form of our tendency to mimic others.<sup>3</sup> Mimicry helps us understand others and their emotions as our brains process our own mirrored responses.<sup>4</sup> But mimicry isn't just an automatic response to emotion. The chief barrier to emotional contagion, perhaps unsurprisingly, is the sterile mask of inauthenticity. We don't tend to mimic inauthentic emotion.<sup>5</sup> And don't you just love that we intuitively seem to "know" the difference and our mimicry engine shuts off in the presence of the inauthentic?

"Social information refers to how an individual makes inferences about another person's thoughts, feelings and intentions based on emotions."<sup>6</sup> So, suggest the authors, where someone is perceived as emotionally tough during a negotiation it would mean that one might infer that person is less likely to make concessions and more likely to present high demands.<sup>7</sup> From this phenomenon, the authors surmised that an inauthentic expression of anger would cause jurors to

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<sup>1</sup> Samuel Choi et al., *The influence of attorney anger on juror decision making*, 0 PSYCHIATRY, PSYCHOLOGY AND LAW, no. 0, 2022, at 1-28, <https://doi.org/10.1080/13218719.2021.2006099>.

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *See, Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 5.

use this social information to conclude the attorney shouldn't be trusted. Conversely, where the attorney's anger was authentic, jurors might use the emotional information to reach some sort of positive conclusion about the attorney—such as inferring the depth of the attorney's own convictions or even believing the attorney to be more competent.<sup>8</sup>

Now to the real questions here: Would authentic anger catch on from a prosecutor to the jurors and what would inauthentic anger produce? Would the social information of authentic anger and inauthentic anger create the right sort of inferences in the jurors? First, jurors tended to become angrier where the prosecutor's anger was authentic, and this meant that the odds of a guilty verdict were 249% greater where jurors experienced an attorney's authentic anger over a display of inauthentic anger.<sup>9</sup> Additionally, a juror's awareness of an attorney's authentic anger tended to positively affect the juror's confidence in their guilty verdict.<sup>10</sup> The authors also found that a juror's perception of authentic anger positively affected the juror's opinion on the attorney's competence. The authors then correlated that conclusion of competence to the increased odds of producing a guilty verdict.<sup>11</sup> Perhaps none of those seem too outside of the ballpark. Let's finish with a few surprises. First, the authors found that inauthentically angry prosecutors were *not* trusted less than the control group of prosecutors who expressed no emotion, suggesting that being emotionless was about the same as being fake.<sup>12</sup> Second, the authors said that there wasn't enough evidence to conclude that inauthentic displays of anger *backfired* on the prosecutors. "...mock jurors who knew about the prosecutor's fake anger did not trust this prosecutor any less than the prosecutor who was [either] genuinely angry or not angry."<sup>13</sup> I would have bet money that it would have killed trust! Finally, the authors "found that perceptions of the prosecutor's competence mattered more than [a juror's own] anger in guiding mock juror verdict[s]."<sup>14</sup> Maybe that last one is not that much of a surprise.

Perhaps the prosecutors in our midst are pumping their collective fists and the defense lawyers among us are pondering what their own emotional volleys should be. I don't know that we need to put tremendous stock in these findings such that it changes the regular process of trial preparation and execution. There are, nevertheless, some interesting thoughts to chew on. For me, I might just use this as a conversational springboard with one's co-counsel or class on the dual nature of anger: Its power of attraction and its capacity for destruction. Beacon or blaze. And doesn't a trial lawyer have to both leverage anger and quench it, all in a day's work? This practical and philosophical question is one I hope we are spurred on to discussing with our colleagues and classes.

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 12, 14.

<sup>10</sup> *Id.* at 15.

<sup>11</sup> *Id.* at 16.

<sup>12</sup> *Id.* at 17.

<sup>13</sup> *Id.* at 20.

<sup>14</sup> *Id.* at 21.