

# BACK STORY

## FOCUS GROUPS AND MOCK COURTROOMS: THE FUTURE OF PERSONAL INJURY LAW

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You want to be an outstanding trial attorney and receive the best possible jury verdicts? The key lies in knowing and understanding your audience, and the most effective way to accomplish this is by testing your trial strategies prior to ever setting foot in the courtroom.

Through the use of focus groups and mock courtrooms, attorneys can hone their arguments and gain valuable insight regarding the crux of their cases. I strongly believe in results garnered through use of these tools.

Focus groups afford the opportunity to test multiple trial arguments and strategies to determine which are most effective. They help reveal the strengths and weaknesses of a case, particularly in relation to witness credibility and evidence reliability. Essentially, focus groups demonstrate which issues matter most to a jury.

Members of the general public do not typically think in the same way as an attorney. Therefore, juries may interpret situations differently than you would. It is vitally important to understand which aspects of a case will grab a juror's attention and which they will be more likely to ignore. For example, I had a case where my client was hit by a car while riding her bicycle. The defense argued that my client was at fault for riding her bicycle in a crosswalk. Through focus groups, I learned that this fact was irrelevant in the minds of our mock jurors. The focus groups confirmed that this was a promising case, which prompted me to allocate more resources to it and, I believe, helped persuade the jury to return a substantial verdict for the client.

Once you determine you want to focus-group a particular case or trial strategy, consider the following tips in your planning:

- 1. Pick a time of day that is most likely to work for your target demographic.** I have found lunchtime sessions to be most advantageous. They are less expensive and force me to be concise with my arguments.
- 2. Don't waste time waiting for "the right case" to focus-group.** Trust me, you will always have a case that can benefit from this strategy.

- 3. Pick your participants carefully.** Seek unbiased strangers, and screen them to ensure that they accurately represent the demographic of your potential jury pool.

- 4. Provide incentive for the participants.** Decent pay for participants is \$75 for a full day, \$50 for an evening and \$30 for a lunchtime session. Cater good meals so the participants know they are appreciated and are not distracted by hunger or thirst.

- 5. Limit any potential biases.** The most useful focus groups are those in which the participants do not know which side is the sponsor.

- 6. Record the entire session.** Ask participants on camera what they think of the opposing side's strongest arguments. This practice sheds objective light on the case and can serve as a reality check to either side. Then ask the participants what the verdict should be. Favorable videos can be shown at mediation or before trial to help obtain favorable settlements.

Overall, focus groups should be treated as real-life situations. For this reason, mock courtrooms bring focus groups up to the next level. Your participants will make more thoughtful decisions if they believe they are being presented with a real case and understand that their decisions have real consequences.

The more you know about potential jury opinions and responses to your arguments, the better prepared you will be for trial. My feeling is that the potential rewards make it worth the financial investment. **NL**



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