

Mock Trials and Focus Groups: Are They Helpful?

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A mock trial or focus group is the most important tool available to a trial lawyer in preparing his or her case. How can a trial lawyer best assess how jurors may react to issues, claims, witnesses, and parties? Gut feeling? Experience in similar cases? Results in other cases? Certainly these methods have merit. However, these methods cannot provide the most essential information: how folks just like the real jury feel about the actual case.

While instinct, experience, and jury verdict research are how trial lawyers have traditionally predicted how jurors would react to their cases, these methods are no substitute for objective data obtained from jury simulation and group dynamics. By presenting the facts of the actual case with folks demographically matched to the real jury, the trial lawyer can best predict answers to important questions such as:

- How will the real jurors react to the case?
- What will resonate with the real jurors?
- What will turn off the real jurors?
- How will real jurors react to the parties?
- How will real jurors react to the witnesses?
- What jurors will be best for the case?
- What is the value or range of value of the case?

Trial lawyers with significant cases, having considerable sums of money at stake, often expend a lot of time and energy seeking out advice from other lawyers about what their cases are worth. In most of these cases, the trial lawyer, while having spent vast sums of money to discover and develop his or her case, has not bothered to conduct a mock trial or focus group. This may be a big mistake. By not doing so, the trial lawyer will not gain the confidence that a mock trial or focus group can provide. Such confidence is invaluable in making the important decisions the trial lawyer will undoubtedly face at trial or mediation. In significant cases, instead of asking the question, can I afford a mock trial or focus group, the question the trial lawyer should ask is: Can I afford NOT to do one?

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