

## Mock Trials and Focus Groups: How Are They Conducted?

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The goal of the trial lawyer in using a mock trial or focus group in his or her case is to obtain objective information from a group of individuals demographically similar to the real jurors. Consequently, the mock trial or focus group should be designed and implemented to efficiently and effectively provide such information. This design can, thus, range from simply getting a group of individuals together to discuss one or more aspects of a case to a formal, multi-day program with several testing procedures used in a serial fashion. Likewise, the implementation of the mock trial or focus group can range from do-it-yourself exercises to the use of jury consultants and other professionals.

The terms, “mock trial” and “focus group” are often used interchangeably. For purposes of this article, a “mock trial” refers to a simulated process in which test group jurors receive and decide upon evidence as a jury, in a manner like the real trial. “Focus group” refers to a process that utilizes multiple data accumulation exercises in addition to the simulated format.

The mock trial format can often be quite illuminating while still being cost-effective. A properly designed mock trial allows the trial lawyer to efficiently test the critical issues, using group dynamics, like the real jury. A suggested format is as follows:

- Two sets of individuals, demographically matched to the real jury, are selected.
- A neutral summary of the facts, presented in a succinct, truncated fashion, are presented to both sets of individuals. This summary should also include the arguments of each party. The presentation is balanced and neutral, indeed erring in favor of your opponent when necessary.
- After presentation of the neutral summary, each individual juror completes a short questionnaire, designed to obtain his or her reactions before being subjected to any group dynamics.
- The mock jurors are then divided into two groups, where they deliberate like a real jury. The deliberations are videotaped and played as a live feed to the attorneys/consultants on monitors in a separate room.
- At the conclusion of each jury’s deliberations, the attorneys and consultants, having watched the deliberations, conduct questioning and debriefing of the mock jurors.

The process described above, when designed and executed properly, typically provides feedback to the trial lawyer that proves invaluable at trial or mediation. This process is usually quite affordable. Moreover, the cost can be passed on to the client as a case expense with the client’s prior permission.

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