

# Using Mock Trials to Improve Verdict and Settlement Results

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### Introduction

A mock trial, also referred to as a focus group, is a process where information about a lawsuit is provided to a group of “mock jurors” in order to provide a better understanding of how jurors will view the lawsuit. This information can prove extremely valuable in understanding your case strengths and weaknesses and developing case themes and easily digestible analogies. Not only can it help you prepare the best possible way to communicate to a jury it can also help you favorably settle cases prior to trial.

### The Process

Mock jurors are specially selected to represent a cross-section of the jury pool for the particular case. These individuals are presented with the facts of the case, which can take the form of attorney presentations, written materials, video presentations, etc. Participants complete written and/or oral questionnaires with case-targeted questions and engage in discussions and mock deliberations. The entire process is recorded and all responses are cataloged along with demographic information on each participant. The results are delivered either in oral or written form along with specific recommendations.

### The Benefits

The following are some of the principle benefits of conducting a mock trial:

#### Negotiations

While the number of mock jurors involved in a typical mock jury is too small to provide a statistically reliable predicted verdict amount, a mock trial can provide a view as to what individual jurors think a case is worth prior to deliberating with other jurors. This amount can be fairly representative of damages from both the plaintiff and defense perspective and can provide you solid information prior to entering negotiations in mediation or otherwise.

Also, under certain circumstances the mock trial results can be used as direct tool in negotiations. Notwithstanding the statistical insignificance of the deliberated mock jury result, a formal written report from a professional trial consulting firm showing a favorable verdict can prove very powerful if shared with the opponent during negotiations.

#### Jury Selection

A mock trial helps identify how different kinds of jurors are likely to react to issues, arguments, evidence, exhibits and personalities specific to the case. Given the applicable jury pool and facts of your case, this can provide you an actionable plan for jury selection and trial.

The way each individual makes decisions is affected by their life experiences, attitudes and beliefs. The mock trial gathers information about what life experiences affect a juror’s thinking about your case and how. For example, how does a juror who has been in an accident view a case where the plaintiff was injured on the job at work?

#### Analogies

Analogies are powerful tools for underscoring your points at trial. Mock jurors often provide great analogies for or against your case. It is important to familiarize yourself with these analogies and to know how to respond to them and use them in your favor in front of the jury.

#### Themes

A mock trial can give you an opportunity to test themes and know in advance whether or not they resonate with a potential jury.

##### Missing Information

Mock jurors often provide feedback regarding information they would like to have learned more about. If a mock trial is done early enough, it can provide an opportunity to identify and track down this sometimes critical missing information.

#### Conclusion

In sum, mock trials can provide invaluable information to evaluating and litigating your case and can sometimes serve as a very powerful settlement tool.

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