

## **The Value of Focus Groups: *Are you thinking what they're thinking?***

### ***What is a focus group anyway?***

A focus group is a demographically diverse group of people assembled to participate in a guided discussion to provide ongoing feedback on various products, concepts, issues, etc.

The individuals are guided through a discussion by a moderator or consultant. The goal of the focus group is to get beyond superficial answers and uncover insights on consumer attitudes and behavior.

There are approximately 750-800 focus group facilities in the United States with hundreds of thousands of sessions being held annually. Roughly 70% of all consumer research dollars are earmarked for this type of qualitative research.

### ***How should a focus group session be conducted?***

First, you must define the purpose and objectives of the focus group. This should be clear and specific. Example: *I want to know whether or not a jury will hold it against my client for exaggerating his symptoms to doctors and other health care providers such that I cannot win this case.*

Second, you must establish a timeline. You must take the time to identify and recruit the participants and establish parameters for your study such as the number of participants and the process you will use to get the information you need. Putting together a focus group cannot be done on the eve of a study and preparation should start several weeks in advance. There are quality organizations that can provide specifically selected participants who fit the demographics of your jurisdiction as well as provide a dynamic facility. This is actually more affordable than one may expect.

Third, you plan by turning the process you have chosen in to a format that you can follow during the testing. I generally allow 15 minutes for demographic information gathering, a few minutes for introduction and learning more about the participants' respective experiences. I think it is important to introduce the group to the purpose and context of the focus group, explain what a focus group is and how the session will flow. I try and warm up with a few simple questions to get the participants comfortable with me and with the environment. I then turn to the format that I developed which is always case specific based on what our objectives are for any particular study. I generally have a closing session where I wrap up the focus group and try to obtain further input and close by thanking them for their time and input. I typically schedule the study to last 4 hours. Many of the participants want to follow up on how the actual case ultimately resolves.

Fourth, you should have someone who can collect and catalog the data into a spreadsheet in real time. Note takers are important and the information derived should be quickly organized and reduced to a report of sorts as your memory will certainly fade as will the emotional impressions made during the study.

Fifth, you should video your studies. You will want to re-visit the session as, like a movie, you always pick up on new things every time you watch it. Depending on the purpose and goals of the session, I suggest that there are certainly times when close-ups on particular participants may serve you well in the future. I have shared video excerpts with mediators and/or opposing counsel in response to certain positions and defenses. I have also included excerpts in demand packages to adjusters.

Sixth, you should always remember not to be afraid to lose a focus group issue, finding or other conclusion. You are there to test and learn. Sometimes, in order to achieve valid results, you may have to leave out that really juicy or inflammatory fact in an effort not to taint the results. Lose the battle, win the war.

In close, I have never conducted a focus group and left thinking that we wasted time or money. We learn something about our case every time. If you do not have the time or desire to conduct your own focus group testing, then there are a number of extraordinary facilitators available regionally. One of the most nationally renowned is our own Greg Cusimano from Gadsden. But I encourage you to give it a try some time.

Jury behavior has been investigated for decades. While jurors may show variations across regional studies, for the most part juror behavior can be predictable based on demographics and make-up. Some general findings over the years emanating from large sample sizes suggest the following:

- There is no impact on success rates in tort cases between larger juries (12) and smaller juries (6). However, the mean damage award was three times greater in larger juries than in smaller juries.
- Smaller juries tend to deliberate longer with a higher participation rate than larger juries.
- Forepersons tend to be white males and very influential relative to average jurors.
- Juror comprehension is 15% higher with simple jury instructions as compared to pattern instructions.
- Medical expenses have the strongest relation to total award as compared with all other expense related factors.
- Expert testimony is infrequently mentioned during jury deliberations.

***What are Alabamians thinking?*** The below represents certain feelings and biases that exist before a prospective juror enters the courtroom. These, and many more ingrained preconceptions, must be dealt with either by identifying the relative bias in voir dire or working around it through trial. Enjoy!

- 54% believe that plaintiff's attorneys can be trusted to present a case truthfully versus 52% for defense attorneys while only 45% can trust TRIAL LAWYERS! (That is actually not as bad as I had anticipated).
- 76% believe that there are too many lawsuits.
- 68% are willing to support a large verdict if the facts support it.
- 36% believe that if you are religious, you should not sue regardless of the facts.
- 87% of jurors must be convinced beyond a reasonable doubt that the plaintiff's claims are accurate.

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