The Use of Focus Groups to Improve Your Case, Voir Dire, and Jury Selection

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Your client is a parent living in Anywhere, USA, faced with the emotional and fiscal reality of life with a child so severely damaged at birth or by a drug or other medical procedure that the child will never be able to ride a bike, go to school, fall in love, or even respond with a smile to a parent's loving touch. What factors will cause jurors to provide the most financial compensation to the family for this tragedy? What type of jurors do you want to avoid having on the jury? Which jurors have a worldview that sees lawsuits as irrelevant or an intervention into God's will?

You are a court-appointed lawyer defending a poor black man in a rural southern town. He faces death by lethal injection if he decides to reject the state's final offer of life without the possibility of parole to plead guilty for the murder of a white police officer, a crime he says he did not commit, and, in your opinion, the evidence does not come close to supporting the state's theory. Should he take the deal and save his life, or go the gamut and run the risk of execution?

Your client is a Fortune 100 company whose product is alleged to have resulted in the deaths of or severe injury to thousands of consumers. Several jury trials have taken place with mixed verdicts for and against your client, but each has resulted in a wave of overwhelmingly damaging publicity. How many cases should the company take to trial before settling claims for amounts that may forever affect that company's "bottom line"?

I. Introduction

The list of case scenarios like those above is endless, but one question remains the same: Can this client's case benefit from pretrial focus group research? The thousands of lawyers and their clients who have used focus groups successfully to answer questions about case strategy and jury

[1]This paper, slightly modified, was first presented at *ATLA's Case Workshop*, Atlanta, GA, September 1997.

selection during the last 15 years suggest that focus group techniques prove helpful in resolving these types of vital life-or-death decisions facing trial counsel and their clients.[2]

The field of jury and trial consultants has grown from a small group of 20 or fewer in 1975[3] to more than 350 listed in the most recent directory of the American Society of Trial Consultants.[4] The focus group is a mainstay among the research techniques used by jury and trial consultants, as well as by many trial practitioners.

But what is meant by focus group research? Are some techniques for conducting focus group trials more successful than others? What are the pros and cons of focus group research? What factors should lawyers consider in the preparation and conduct of focus groups and the interpretation and generalization of the research findings?

This paper addresses some common tactical and strategic questions that can help litigators use focus group techniques to their best advantage to improve case strategy, voir dire, and verdict outcome.

II. What Is a Focus Group?

Although the term "focus group" has nearly become a household word, there is still some confusion as to the definition of a focus group and the parameters of focus group research. Sociologists first used focus groups as a form of research methodology in the 1930s to examine the persuasiveness of wartime propaganda efforts.[5] They have continued to be used extensively in the field of market-testing new products and advertising campaigns, and are the companion to telephone opinion surveys for the development of political strategies.[6]

A focus group is a qualitative research technique that involves a moderately structured discussion led by a professional interviewer (the "facilitator") with a group of eight to ten participants

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[2]John Howie, *Bringing Case Issues into Focus: Mock Trials and Focus Groups Can Sharpen Your Presentation*, 31 TRIAL 32-40 (1995); Fred Misko Jr., *Focus Groups*, COURSE MATERIALS (*ATLA's Post-Ultimate College: Focusing on Your Case*, Feb.-March 1994).

[3]THE JURY SYSTEM: NEW METHODS FOR REDUCING PREJUDICE (D. Kairys et al. eds., National Jury Project and National Lawyers Guild 1975).

[4]MEMBERSHIP DIRECTORY, AMERICAN SOCIETY OF TRIAL CONSULTANTS (Towson University 1997). To order, contact Ronald J. Matlon, Executive Secretary, Department of Mass Communication and Communication Studies, at Towson University, Towson, MD 21252, or call (410) 830-2448.

[5]D. MORGAN, FOCUS GROUPS AS QUALITATIVE RESEARCH 11 (1988).

[6]E. Kolbert, *Test-Marketing a President*, N.Y. TIMES MAG., August 30, 1992, at __.

("respondents" or "participants") who are selected because each reflects certain demographic or experiential characteristics representative of the target audience. The goal of the focus group interview is to elicit the participants' individual and collective views through the use of both open-ended and directed questions that focus on key aspects of the issue under study.

Regardless of the research topic, there are three common elements of all focus groups:

1. They involve *multiple* respondents interacting together;

2. The *interaction* of the participants is a key element of the research; and

3. They are directed by a trained professional who focuses the flow of the discussion to cover the predetermined objectives of the research, and designs appropriate questionnaires for analysis.[7]

With respect to litigation focus groups, this technique is a flexible method any lawyer can use before trial to learn how jurors are likely to view the issues, themes, witnesses, and demonstrative evidence in a case, as well as what questions linger in jurors' minds about the case, your client, your opponent, and yourself after listening to a synopsized version of the evidence and arguments. Regardless of case complexity, or a lawyer's skill level or resources, any lawyer's case and courtroom performance can be improved through the use of focus group research techniques.

Methods and logistical procedures for recruiting participants, organizing, recording, and ensuring the confidentiality of focus groups have been detailed in previous work by jury and trial consultants and lawyers with decades of experience successfully using focus groups in the preparation of a wide variety of criminal and civil federal and state cases.[8]

Some of these articles also offer important and practical suggestions on how to choose between or combine the two options of focus groups and trial simulation[9] and cost-effective ways to adapt them for the solo practitioner or small law practice.[10]

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[7]T.L. GREENBAUM, THE PRACTICAL HANDBOOK AND GUIDE TO FOCUS GROUP RESEARCH (D.C. Heath & Co. 1988).

[8]C.E. BENNETT & R.B. HIRSCHHORN, BENNETT'S GUIDE TO JURY SELECTION AND TRIAL DYNAMICS (West 1993); JURYWORK: SYSTEMATIC TECHNIQUES (E. Krauss & B. Bonora eds., Clark Boardman Callaghan 1992); DONALD E. VINSON & PHILIP K. ANTHONY, SOCIAL SCIENCE RESEARCH METHODS FOR LITIGATION (Michie 1985).

[9]B. Grant, *Focus Groups Versus Mock Trials: Which Should You Use?*, 16 TRIAL DIPL. J. 15-22 (1993).

[10]D. BALL, THEATER TIPS AND STRATEGIES FOR JURY TRIALS 196-202 (National Institute for Trial Advocacy 2d ed. 1997).

III. What Can Focus Groups Tell You About Jurors and Your Case?

Focus groups that are representative of the range of typical jurors in your trial jurisdiction can provide concrete answers to nearly any question you may have about how jurors are likely to view a specific case. The questions on the topics listed below are just a few of the many issues that can be answered by focus group research.

Pretrial knowledge and opinion of the case

1. How much, if anything, have jurors read or heard about your case, the case issue, you or your opponent, or your respective law firms?

2. What type of information or beliefs about lawyers, judges, witnesses, jury verdicts, or specific case issues are jurors likely to bring into the jury room from watching television or reading popular magazines and novels?

3. Has the juror discussed these issues or the case with family members, coworkers, or friends? If so, what opinions has he or she heard expressed by others?

4. Does the juror agree or disagree with friends or relatives? Has the juror's spouse told him or her never to return home if he or she votes in a certain way?

5. Does this "knowledge" of the case or beliefs about the players help, hurt, or have no impact on the plaintiff's and defendant's cases?

6. What types of opinions have jurors formed about the value of your case as a result of reading pretrial publicity, the "letters to the editor" section of the newspaper, or companion stories about the subject matter of your case?

Strengths and weaknesses of the case

1. What do jurors view as the theme of your case? Is this the theme you want them to hear? Is it a better theme?

2. Is your major theme or issue coming across as strongly as you want it to with the jury? Why or why not?

3. What do they view as your opponent's key theme? Does this help or hurt your side of the case?

4. What do different jurors view as the "case story"?[11] Is that the story you want them to hear?

5. How many competing case stories are generated by the case presentation? How does the jury reach a consensual case story?[12] How does it affect the verdict and the damages?

6. What opinions do jurors form about the plaintiff's claims and the defendant's explanations from hearing a bare-bones summary of the case?

7. What issues in the case are confusing to jurors, and what issues are clear?

8. Does the jury view some of your opponent's key arguments as "nonissues"? Does the jury view some of your key points that way? Why?

9. What images do jurors form of your client, the opposing party, and the key witnesses? Are they accurate? Do these images help or hurt your side of the case or that of your opponent?

10. Can you think of ways to use the images, themes, and case stories generated by the focus groups to improve your case presentation, to educate the jury in voir dire to the strengths of your case, and to defuse the impact of the opposing party's strong point?

11. What words and images in your opening statement or your closing argument are the most powerful? What analogies detract or "don't work" with jurors?

What evidence or testimony is likely to increase or decrease damages?

1. For example, will the damages decrease after the jurors view your "day-in-the-life" video because the baby seems to be making "real eye contact" with the nurses although 85 percent of his or her brain was missing at birth? Will damages increase or decrease across the board if the injured infant's 80-year-old grandparents testify loss of companionship and joy because the "baby without a brain" is their only child's only offspring and she is no longer able to conceive as a result of the medical negligence at birth?

2. Do jurors award more money when a verdict amount is specified, or when no specific amount is suggested and the jury is asked to award an amount that is "fair"?

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[11] W. LANCE BENNETT & MARTHA S. FELDMAN, RECONSTRUCTING REALITY IN THE COURTROOM (Rutgers University Press 1981).

[12] R. HASTIE ET AL., INSIDE THE JURY (Harvard University Press 1983).

How do jurors use their life experiences to interpret the evidence in your case?

1. How do jurors' "life experiences" on your case's key issues shape their interpretation of the evidence in the case?

2. For example, does a juror's 15 years as an emergency room nurse make her less tolerant of doctors' error in judgment or less sympathetic to the plaintiff's claims in a failure to diagnose case?

3. How do jurors with strong accounting or finance backgrounds interpret the allegations and consequences of a plaintiff's verdict in HMO fraud actions?

4. Does the fact that a juror's mother died when he was in elementary school make him more sympathetic or more stoic in responding to the claims of the adult children survivors of a woman who died of an untimely diagnosed case of breast cancer?

5. In a case in which a child's injuries may have been partially caused by parental negligence, what parental experiences make a juror more critical of your client or cause a juror to justify your client's actions?

6. What life experiences or knowledge about the case or related case issues are so important that they must be elicited by you and either used or defused in voir dire?

Juror demographics

1. How do juror demographics affect your case, if at all?

2. What demographic characteristics or life experiences cause certain jurors to be viewed by other jurors as "experts" on certain aspects of the case and thereby increase their leadership and power on the jury?

3. How do juror demographics and life experiences affect witness credibility? For example, in a sexual harassment case, how do gender, age, education, and class affect juror assessment of the plaintiff's credibility in light of his or her appearance, and behavior toward and reaction to the alleged harasser?

4. Are you misevaluating jurors because of your own stereotypes about key demographics, such as race, gender, education, age, or class? Do you expect minority, female, less-educated, or working-class jurors to be less articulate or uninfluential on a jury in a complex case, such as an intellectual property case? If so, "test-drive" your case with a full range of juror types before finalizing your juror profile.

5. Does similarity in some demographic characteristics cause the juror to identify with or to distance himself from the party on trial? For example, the foreperson of the jury in the Oklahoma City bombing case was in the same age range as defendant Timothy McVeigh and had military experience, but those similarities may have motivated him to intentionally ignore any possible desire to take McVeigh's point of view in evaluating the evidence lest he be accused of identifying with a mass murderer.

Juror leadership and group dynamics

1. What types of jurors are likely to be the leaders in any group?

2. How does the juror's personality and personal style affect leadership potential on the jury?

3. Are groups composed predominantly of persons with certain shared characteristics—e.g., women, whites, senior citizens, prior jurors, those who did not graduate from college, those who have no health insurance—likely to reach different verdicts in your particular case, as compared to a more diverse jury? If so, which party is helped or hurt by the predominance or exclusion of certain characteristics?

4. Are certain biases "softer" than others? Will jurors accept or ignore biases in other jurors,. or do they change the nature of the jury deliberation process or affect the verdict?

How important is your case or case issues to prospective jurors?

1. What do jurors view as the "fairness issues" at stake in this trial?

2. Are jurors concerned about the message a certain verdict would send to the community? If so, why?

3. What do jurors view as the impact of the jury verdict in this case? What are their concerns about the impact of their verdict? Who do they think will react and in what way to different verdicts?

4. Do jurors think a jury verdict should be used to send a message in this case? If so, what message and why should it be sent?

How do jurors react to your client?

1. How do prospective jurors view your client's dress, vocal qualities, eye contact, posture, language, or attitudes? For example, do the jurors view him or her as a whiner, too stoic, or appropriately bereaved?

2. Does your client seem greedy and vengeful, or deserving and appropriately upset by what has happened to him or her or to loved ones?

3. Does his or her demeanor change dramatically when jurors view him or her off the witness stand while waiting in the courtroom, standing in halls, in the cafeteria, or on the street during court breaks? If so, jurors could conclude that the witness' testimony on the stand is artificial, manipulative, and deceitful.

How do jurors react to you?

1. Do you talk too fast, mumble, or speak too softly?

2. Are you long winded or do you fail to spend enough time making your point?

3. Is your language too erudite, too elementary, or does it include a balanced amount of slang for your audience members—the residents of Yourtown, USA—to think of you as one of their own?

4. Do the jurors view your style of dress as too flashy or too rumply, out of style, too expensive, or muted and tasteful?

5. Do those half-glasses make you appear condescending or schoolmarmish?

6. Did you use a pointer in the same intimidating way as the jury foreperson's elementary school teacher?

7. Do the jurors view you as appropriately confident, arrogant, or whining?

8. Do you tend to cut off your own witness, or to inadvertently turn your back to the jury?

9. Do you have other traits that are distracting to jurors? For example, does sweat drip off you when you get into cross-examination? Do you blow your nose too loudly, talk rudely to cocounsel, or appear messy and disorganized?

Other trial issues

1. Are your charts and other demonstrative evidence effective communication tools?[13] Does your documentary evidence communicate what you think it does?

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[13]Rodney Jew, *Motivating Jurors—From Skepticism to Advocacy: How Juries Learn*, COURSE MATERIALS (*ATLA's Specialized College: Cross-Examination*, Oct. 1997); Rodney Jew & Martin Q. Peterson, Ph.D., *Envisioning Persuasion: Painting the Picture For the Jury*, TRIAL __ (Oct. 1995).

2. What do the jury instructions really mean to jurors?

3. What else do the jurors want to know about the case and the parties that was not told to them in the case presentation? Why would this information be important to them? (You may or may not want to provide it to the real jury.)

IV. Focus Group Formats Most Often Used to Prepare for Litigation

The focus group research technique is a flexible research method used to evaluate group behavior and opinion. The focus group method is flexible in that it allows the researcher and client to adapt the format of the group interview to accommodate a wide range of goals. For example, the focus group format allows the researcher and lawyer to choose the number of groups to be conducted, the content of the presentation materials, the questions to the respondents and who will ask them, the location and length of the groups, and the characteristics of the people who will participate as the audience (respondents) in the focus group research.

While there are no absolutes in the field with respect to these factors, they are key issues that must be decided prior to conducting the focus group research. These parameters are usually determined by the goals of the research, the timing of the project, and the size of your budget. In making these decisions, the most important criteria is the type of generalization or conclusion you want to be able to draw about your case as a result of having conducted the focus groups.

Trial consultants typically use three types of formats in conducting focus group research.

1. Case issue focus groups

2. Mock trial focus groups

3. Summary trial focus groups

The focus group formats differ primarily with respect to the following.

1. The goals of the research

2. The number of groups conducted

3. The nature of the issues or presentation material

4. The person who presents the material

5. The amount of interaction between the moderator and the participants

6. The type of research measures used (questionnaires, verdict forms)

Case issue focus groups

Case issue focus groups are the least structured of the three formats and are used primarily to explore jurors' first impressions and reactions to trial issues and parties, rather than to evaluate the strengths and weaknesses of the evidence in the case. The questions posed to participants may vary from one group to another to allow for an in-depth exploration of a variety of issues and to try different variations of case themes with the participants. The session may be conducted entirely by the trial consultant or in combination with a lawyer presentation. There may or may not be a separate "deliberation session" with the participants after they have received information about the different sides of the case.

Mock trial focus groups

Mock trial focus groups are generally used to answer vital "bottom-line" questions regarding the value of a case and to obtain an estimate of damages for the settlement discussion or brochure, and to profile more systematically the juror characteristics of the prospective jury pool, favorable and unfavorable, toward the key issues in the case. In this format, the lawyers typically make the case presentations to a large panel of mock jurors (24-50) that breaks into a minimum of 2 or 3 (or more) deliberation groups, or a "jury." Each mock jury contains 8-10 mock jurors.

Generally the mock trial focus group format includes a summary of undisputed facts or an introduction by a "judge," opening statements by lawyers covering the key elements of each of the relevant parties in the litigation (plaintiff and defendant(s)), witness testimony or documentary evidence, closing arguments and rebuttal, formal instruction by the judge on the charges and verdict form, a lengthy deliberation session and formal debriefing session or exit questionnaires, and oral individual and group debriefing by the trial consultant.

In a mock trial focus group, the format and content must be constant from group to group in order to obtain reliable results. Generally, the lawyers make the case presentations, while the trial consultant moderates pretrial and posttrial juror discussions. There is always a deliberation session in which the mock jurors deliberate alone while the lawyers and trial consultants watch the session via two-way mirror or closed-circuit video, or review the videotapes after the session is completed.

The presentation may be made live, on videotape, or a videotape may be made of the live presentation. The videotaped mock trial may then be shown to repeated samples of mock jurors to obtain a representative sample of verdicts from a number of mock juries.

Summary trial focus group

The summary trial focus group format is a hybrid blend of the case issue and mock trial formats; it generally excludes presentation of witness testimony and relies on a summary form of the evidence presented by lawyers and illustrated by charts or other demonstrative evidence that focus the participants on the key evidence for each side. The trial consultant may lead an initial case issue discussion with participants preceding the lawyer's presentation. After the plaintiff's presentation, the trial consultant administers a questionnaire or leads a short question-and-answer session with mock jurors before they hear the defense presentation. Questionnaire administration and oral question-and-answer sessions follow the defense presentation. The mock jurors deliberate and are later debriefed by the trial consultant.

V. What Focus Group Format is Most Appropriate for Your Goals?

If you are in an early stage of case preparation, you may want to conduct case issue focus groups to learn how likely jurors in your area react to the general case issues and a brief synopsis of the case in order to develop themes and voir dire questions, as well as to help you narrow your focus on the type of witnesses who will best support your case strengths.

For example, in a negligence case involving the failure to timely diagnose breast cancer, it may be helpful to conduct some initial focus groups just to learn how jurors feel about these issues, how much jurors know or have read about the issues, who has personal or family experience with breast cancer victims, and what type of information they would expect to hear from the plaintiff in order to find against a physician and to award substantial damages.

Case issue focus groups are also useful in a case in which you have a number of qualified experts to testify about a key case issue and the judge requires you to narrow the amount of testimony on this issue. Conducting case issue-type focus groups with panels of mock jurors who are like the people who will actually be selected (after "cause," after "peremptories," and in light of the length of the trial) can be vital to the selection of the experts who can most effectively and successfully *communicate* your case to the *audience* of jurors in your trial jurisdiction. These may be short groups conducted in an evening session in which the real issue is to get a full range of feedback on the communication style and credibility of the witness rather than to get a reading on the effectiveness of the lawyer's advocacy.

However, if you are in a later stage of trial preparation, you may be faced with critical questions such as "Who are the worst jurors for me?", "What is the range of damages that I am likely to get?", and "Should I settle this case? And if so, for how much?" This is a time when you may want to conduct summary trial or mock trial focus groups. As noted above, these are much longer trial presentations, more labor intensive for the lawyer, require a longer lead time to recruit the mock jurors, and consequently are more costly. When conducted with a very targeted and

representative sample of mock jurors, these are the appropriate types of focus groups to conduct in order to get reliable and valid answers to these important questions.

VI. How to Use Focus Group Data for Voir Dire and Jury Selection: The Use of Questionnaires

Regardless of focus group format, most trial consultants administer a variety of questionnaires to the participants at different stages of the case issue, summary, or mock trial focus group. At a minimum, the panel generally completes a written background questionnaire prior to the commencement of any focus group. In summary or mock trial focus groups, a single- or two- to three-item questionnaire immediately follows each case summary or opening statement, and again follows each witness or closing statement to assess the individual participant's views and reactions. A final "exit questionnaire" may be administered following the jury deliberation and debriefing session. The purpose of these questionnaires is to identify how individual jurors react to the presentation, and to compare individual to group reaction.

At a minimum, the background questionnaire will obtain the basic demographic information as will be obtained in any court-issued juror or qualification questionnaire, and may also contain additional demographic and family background questions similar to those permitted to be asked of the panel in the voir dire examination. In addition, this questionnaire should contain basic questions to obtain the panelist's and his or her family members' prior experience with law, lawyers, and the courts, as well as similar experiences with case issues.

For example, in a misdiagnosis of breast cancer case, the background questionnaire would also contain questions to identify jurors' personal and family experience with medicine, doctors, medical diagnostic procedures, and the like. The trial consultant and the lawyer can then review the questionnaire prior to the conduct of the focus group to be aware of any participants with life experiences relevant to the case at hand. Participants with these experiences may strongly influence the direction of the discussion of the group.

These measures are very helpful to gauge change within the group and within the individual as a result of the presentation materials and the deliberation process. More important, they can help identify issues that should be covered in the voir dire examination.

After the discussion has been completed, the facilitator and the lawyer may look to information in the questionnaire as a way of explaining why a participant took a certain position on a specific case issue. The data can be tabulated by hand or by use of readily available computer software programs and correlated to "verdict preference," "damage award," or other evaluative measures.[14] This form of analysis is only useful in situations in which multiple focus groups have been

[14]Such as PARADOX, STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES (SPSS), or SAS; these are available from most college bookstores and many retail stores.

conducted, because a sample of a minimum of 25-50 respondents is necessary to reach any statistically significant conclusions regarding trends in the data.

Often the correlation analysis of background questions to verdict preferences or beliefs about case issues may result in findings that are counterintuitive to the original hypotheses the lawyer and the trial consultant may have had about jurors as they began the research exercise.

For example, last year my firm conducted focus group research in preparation for a "Latchgate" product liability and wrongful death case against an automobile manufacturer in which the jury deliberated for two and a half hours before reaching a record verdict against the defendant after the month-long trial of the case.

The plaintiffs were an unmarried, interracial couple whose six-year-old son was killed when he was ejected from the rear of a minivan driven by the mother who was hit in an intersection as she was leaving a shopping center. The family members were not residents of this rural southern state; the father was a migrant worker and the mother was unemployed. At the time of the trial, the couple had split up, with the remaining children choosing to live with the father.

The defense claimed the child was ejected through a side window not as a result of a failure of the rear-door latch. In addition to asserting that the latch was not defective, the defense also contended that the mother had not secured the child in a seat belt and had made an illegal turn, causing the accident. The plaintiff denied both defenses.

From the plaintiff's perspective, one of many goals for the research was the identification of background factors that would indicate the types of prospective jurors who would be biased against the plaintiffs as a result of any prejudice against Hispanics, interracial couples, migrant workers, or persons with children born out of wedlock. We believed that jurors with stereotypes on these issues would be more likely to side with the automobile manufacturer and put the defense spin on the evidence, especially with respect to many of the "non-evidentiary" defense themes of the case.[15]

Since the case would be tried in a Bible Belt state, well known for its conservatism as indicated by its repeated election of politically right-wing representatives to the United States House and Senate, there was a strong concern that a factor such as frequency of church attendance would negatively impact a juror's predispositions against the plaintiffs. In fact, frequency of church attendance did impact juror decision making, but in the opposite direction as had been

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[15]Some of these "extralegal" defense themes that had become obvious through the discovery process were themes that Hispanics, unmarried couples, and migrant workers care less about their children, are less likely to use seat belts or take other appropriate safety precautions with their children, and consequently deserve less money in compensation.

hypothesized; the more religious the juror, the more negatively the juror viewed the corporation's defenses.

Questionnaires used in the jury research provided direction for the formulation of questions to be submitted to the court for use in the development of a supplemental juror questionnaire that was ultimately used by the court in this case. Jurors' responses to the questionnaire, which were available to all parties and the court, were used in jury selection to evaluate and rank jurors for the exercise of cause and peremptory challenges.

VII. Conclusion

The use of focus groups in preparation for trial by jury is increasingly becoming a standard practice. The conduct of one or two case issue focus groups before any significant case is becoming more common, even for sole practitioners, small practices, and firms trying a case thought to be worth $100,000 or more.

While there are limitations to the generalizations that can reliably be drawn from one or two focus groups with respect to the development of a jury profile or likely verdict (especially if the respondents are from a "convenience" sample), much can be learned regarding "theme" and "case-story" development, stereotypes, presentation style, and juror comprehension.

Regardless of your case, your client, or your resources, you can be part of the cutting edge of modern trial practice, and certainly steps ahead of the opposition simply by test-driving your next case with focus groups.

Attachment

Supplemental Questions for Juror Questionnaire

1. If you attended college, what was your major area of study or concentration?

2. If unemployed, are you presently looking for work?

   Yes_____ No_____

3. Have you or a family member ever experienced any of the following at work? (Check all that apply.)

	I have	*Family member has*
Layoff/forced retirement	_____	_____
Termination	_____	_____
Discrimination/harassment	_____	_____
Unfair treatment	_____	_____
Work-related injury	_____	_____
Sexual harassment	_____	_____

   If yes, was the situation resolved to your satisfaction?

   Yes_____ No_____

4. Have you experienced a significant loss in the past three years, such as separation, divorce, or loss of a job?

   Yes_____ No_____

5. Do you have any training or experience in any of the following areas? (Check all that apply.)

   Auto industry_____
   Safety practices_____
   Auto repair_____
   Medicine/rehabilitation_____
   Mechanics_____
   Engineering_____
   Sales_____
   Law_____
   Nursing_____

6. Have you ever been an officer or leader in any organization?

Yes_____ No_____

7. Have you ever belonged to a consumer or safety related organization?

Yes_____ No_____

8. Have you ever had a dispute with a big company?

Yes_____ No_____

If yes, please describe the lawsuit and whether it was resolved to your satisfaction.

9. Do you think there is too much, not enough, or just the right amount of government involvement in society?

Too much_____
Not enough_____
Right amount_____

10. Have you ever owned a car that was issued a service action or a recall by a manufacturer?

Yes_____ No_____

If yes, did you have the recommended work done?

Yes_____ No_____

11. Have you ever had any complaints about your car(s)?

Yes_____ No_____

If yes, please describe.

12. Have you ever complained to an auto manufacturer, dealer, or mechanic about your car?

Yes_____ No_____

13. If yes, was the situation resolved to your satisfaction?

Yes_____ No_____

14. Have you ever known someone who was involved in an auto accident?

Yes_____ No_____

If yes, please describe the accident and what/who was at fault.

_____

_____

15. Have you ever witnessed a very serious accident taking place?

Yes_____ No_____

16. Have you ever cared for someone after they had been in an auto accident?

Yes_____ No_____

17. Have you ever bought a defective product?

Yes_____ No_____

If yes, please describe the situation.

_____

_____

Did the product cause any harm or damage?

Yes_____ No_____

Was the situation resolved to your satisfaction?

Yes_____ No_____

18. Have you ever filed any of the following types of claims? (Check all that apply.)

Bankruptcy_____
Disability_____
Personal injury_____
Workers' compensation_____
Small claims_____
Products liability_____

Please describe any opinions you have about large U.S. corporations.

_____

_____

19. Please briefly describe any opinions you have about companies that make automobiles.

20. Please indicate whether and to what extent you agree with the following.

a. Money awards in lawsuits are oftentimes not high enough.

Agree strongly_____
Agree_____
Neither_____
Disagree_____
Disagree strongly_____
Don't know_____

b. Most companies put profits ahead of customer safety.

Agree strongly_____
Agree_____
Neither_____
Disagree_____
Disagree strongly_____
Don't know_____

c. It is impossible to keep young children in their seat belts when riding in a car.

Agree strongly_____
Agree_____
Neither_____
Disagree_____
Disagree strongly_____
Don't know_____

21. Do you believe that the American legal system should be reformed so as to reduce the amount of damages that are awarded to plaintiffs in tort cases?

Yes_____ No_____

22. Do you believe that the American legal system should be reformed so as to make it more difficult for individuals to bring tort cases against corporations, alleging product defects?

Yes_____ No_____

23. Do you believe that the American legal system should be reformed so that the loser in a lawsuit is required to pay the legal fees and costs of the winner?

Yes_____ No _____

24. Do you believe generally that the legal profession is (check one):

Honorable_____
Dishonorable_____
Neutral_____
Don't know_____

25. Do you believe that lawyers should be allowed to advertise in:

a.	Newspapers	Yes_____	No_____
b.	Magazines	Yes_____	No_____
c.	Radio	Yes_____	No_____
d.	Television	Yes_____	No_____
e.	Billboards	Yes_____	No_____
f.	Telephone book	Yes_____	No_____

If you answered "no" to any of the above, please state the reasons for your answer.

_____

_____

26. Please indicate whether and to what extent you agree with the following.

a. Money awards in lawsuits are oftentimes:

Too high_____
Too low_____
About right_____

b. In accidents, compared to other types of vehicles, minivans are:

More dangerous_____
Less dangerous_____
About the same_____
Don't know_____

c. Automakers often mislead customers about how safe their cars are.

Agree strongly_____
Agree_____
Neither_____
Disagree_____
Disagree strongly_____
Don't know_____

27. I would have a problem entering a judgment for punitive damages against a U.S. corporation.

Yes_____
No_____

28. Will you be able to follow the legal instructions given to you by the court, regardless of your personal feelings as to what the law should be?

Yes_____
No_____
I don't know_____

29. Have you ever testified in a deposition or at a trial?

Yes_____
No_____

30. How much attention do you pay to news about the automotive industry? (Circle only one answer.)

A lot_____
Some_____
Not much_____
None at all_____

31. Have you or anyone in your immediate family, or close personal friend ever worked in any aspect of the automobile industry? (Circle one.) 1. Yes 2. No

If yes, please describe the person, his or her relationship to you, the nature of the job, and the name of the employer (if you know it).

_____

_____

32. How many motor vehicles do you or other members of your family own?_____
Please list each vehicle, providing the make, model, and year for each.

1._____
2._____
3._____
4._____
5._____
6._____

33. Other than any care you may have listed above, have you or any other member of your household ever owned a minivan vehicle (manufactured by any car manufacturer)? (Circle one.) 1. Yes 2. No

If yes, please list any minivan vehicle you or household members may have owned, providing the make, model, and year for each.

1._____
2._____
3._____
4._____
5._____
6._____

34. Have you or a close family member ever been involved in an automobile accident? (Circle one.) 1. Yes 2. No

If so, please answer each of the following.

a. The manufacturer of each vehicle involved in the accident. _____

b. Were you (circle one): 1. A driver 2. A passenger

c. Were there other occupants of your car or any other vehicles involved in the accident? (Circle one.) 1. Yes 2. No

If so, how many occupants?_____
What relation to you, if any?_____

d. What injury, if any, was sustained by you or any other occupant of any of the vehicles? _____

e. (If you know) whether the occupants of either car were wearing seat belts:

Yes, occupants of both cars were wearing seat belts._____
Only the occupants of one car were wearing seat belts._____ (Circle one.)
1. Car I was in 2. Other car
Only some of the occupants in either car were wearing seat belts._____
No, no one in either car wore seat belts._____
Don't know_____

f. The damage sustained by each vehicle

_____
_____

35. Do you ordinarily wear a seat belt when riding in an automobile?

Always_____
Almost always_____
Most of the time_____
Some of the time_____
Rarely_____

a. When you are sitting in the front seat, do you ordinarily wear a seat belt?

Always_____
Almost always_____
Most of the time_____
Some of the time_____
Rarely_____

b. When you are sitting in the back seat, do you ordinarily wear a seat belt?

Always_____
Almost always_____
Most of the time_____
Some of the time_____
Rarely_____

36. If you have young children, do you personally buckle their seat belt for them?

Always_____
Almost always_____
Most of the time_____
Some of the time_____
Rarely_____

a. Do you buckle your children's seat belts when they are in the car?

Always_____
Almost always_____
Most of the time_____
Some of the time_____
Rarely_____

b. Do you buckle your children's seat belts when they are in the front seat?

Always_____
Almost always_____
Most of the time_____

Some of the time_____
Rarely_____

c. Do you buckle your children's seat belts whenever they are in the back seat?

Always_____
Almost always_____
Most of the time_____
Some of the time_____
Rarely_____

37. I think that, in general, immigrants to the United States from Mexico who are legal residents of the United States are (circle one(s) applicable):

a. More believable than individuals who are born in the United States.
b. Just as believable as individuals who are born in the United States.
c. Somewhat less believable than individuals who are born in the United States.
d. Much less believable than individuals who are born in the United States.
e. I have no feelings on the subject.

38. If a white woman marries a Mexican man, do you think (circle one(s) applicable):

a. It is never a good idea.
b. It is usually not a good idea.
c. I don't think they should do it, but it's up to them.
d. I have no problem with them doing it.
e. I have no views.

39. If two people who are living together as husband and wife but who are not formally married and have a child out of wedlock, I think (circle one(s) applicable):

a. They are not good or decent people.
b. They should have been legally married before having a child.
c. It doesn't bother me as long as they take care of their child.
d. I have no views.

40. If a child dies in an accident and his parents are a Mexican man and a white woman (circle one(s) applicable):

a. I honestly would not be very concerned about the death at all.
b. I would be concerned, but not as concerned as I might otherwise be.
c. I would be pretty much equally concerned about the child's death no matter what the race or ethnic background of his or her parents.

41. I think that poor people (circle one(s) applicable):

a. Don't care as much about their children as other people.
b. Care about their children about the same as other people.
c. Care more about their children than other people.

42. If a case involves a plaintiff who is a legal resident of the United States, but who was born and raised in Mexico, do you feel that, for whatever reason, you may have some trouble being a fair and impartial juror?

Yes_____
No_____

43. If the facts and law otherwise warrant it, would you have any problem entering a judgment against an American company and in favor of an immigrant from Mexico who is a legal resident of the United States?

Yes_____
No_____

44. I think that an immigrant from Mexico, even if a legal resident of the United States (circle one):

a. Should not be able to use the courts to sue an American company for damages.
b. Should be discouraged from using the courts to sue an American company for damages.
c. Is entitled to the same rights to use the courts to sue an American company for damages as anyone else.

45. Other than any vehicle listed above, have you or any member of your household ever owned a vehicle manufactured by ——? (Circle one) 1. Yes 2. No

If yes, please list any —— vehicle you or household members may have owned, providing the make, model, and year for each.

1._____
2._____
3._____
4._____
5._____
6._____