



Using Jury Focus Groups to Hone Case Themes

By: Opveon Litigation Services



Trying a lawsuit is much more than calling witnesses to the stand, throwing a few exhibits up on a projection screen, and hoping for a good result from the jury. It requires preparation and strategy. Part of that strategy is developing a theme you can use throughout the trial process.

The case theme establishes the framework in which you will present your case. It is a finely tuned narrative that involves buzzwords, slogans, phrases, and analogies. Themes personalize the case for the jury and allow the attorneys to tell their story in a way that resonates — giving jurors the ammunition they need to be an advocate for that attorney and their client in the deliberation room.

At Opveon, we believe that focus groups are the perfect venue for testing and developing themes. When conducting a jury research project, our seasoned consultants work with counsel to learn the facts of a case. We review transcripts and video deposition testimony to get a flavor for the believability and credibility of witnesses. We

read expert reports. We review the physical evidence. We assist with the creation of graphics and demonstratives. From there, we work with the attorneys to put together what we believe to be a compelling case theme. Once we have a working theme [or two] in place, we conduct a focus group to test the theme. Is it compelling? Does it carry weight? Was it motivational and/or inspirational? Or was it a total flop?

We like to think we are good at theme development — and we are! But every now and then, what our experienced consulting team and their trial team clients find persuasive is not necessarily compelling to the focus group panel. Without this type of research, it would be impossible to know what's persuasive to group of people who are demographically similar to the actual jury panel.

By way of example, in one particular personal injury case, we worked with our client to develop a case timeline. Both our consulting team and our client believed the complete timeline of events for the day in question was relevant and important. What we learned from the focus group was that only a couple hours, in the middle of the day, were important to them. They didn't care about what happened at 9:00 that morning or what happened at 6:00 that evening. They only cared about the events that occurred between 11:00 – 1:00. This information allowed us to fine tune our theme and tweak the presentation in such a way that we were able to spend much more time on the key time period versus having to cover the sequence of events throughout the entire day.

The takeaway is this: Presenting the most compelling case possible to the jury will put you in the best position to win. Develop a case theme. Develop it early. Focus group your theme and then tweak it based on the results of the research process. We think you'll like the results.