

Focus Group Research Overview

As the COVID-19 pandemic disrupted communities and the courts, IMS | The Focal Point has been conducting extensive research into the impacts on the litigation community. This summer, we convened a series of in-depth focus groups designed to examine COVID-19 issues and several types of litigation related to the pandemic. Our intent with this research is to develop meaningful insights for our clients and to advance general understanding of how the pandemic will influence jurors' attitudes. We also sought to understand how jurors would view specific types of litigation that may be a direct result of the COVID-19 pandemic. We are making key observations from these findings and related recommendations available to our clients through our COVID-19 Client Resource Hub.

A total of twelve groups were conducted across two weeks this summer in Los Angeles, Houston, and New York City. The research was designed to assess jurors' attitudes toward several types of litigation that are likely to arise from the pandemic. A total of eighty-four jurors—eighty-two of whom participated in the focus groups—were recruited and completed the background questionnaire. These individuals were recruited to match the demographic make-up of three respective venues: Los Angeles County Superior Court, Harris County Court, and the U.S. District Court for the Southern District of New York, Manhattan Division.

Research Design

The recruited participants completed an extensive background questionnaire that measured demographic characteristics and several COVID-19 relevant attitudes. Specifically, they were asked about how the pandemic had impacted them financially; how they viewed the government's response at the local, state, and federal level; their beliefs about insurance companies, nursing homes, and cruise lines; and their existing attitudes toward customer, employee, and employer rights during the pandemic.

They were then split into online focus groups of six to seven participants from a single region. The focus groups were conducted using videoconferencing software, with a moderator guiding the discussion across five hours. The first hour of discussion pertained to COVID-19 generally, as jurors described how the pandemic had impacted their employment, social lives, and travel plans. They also were asked to assess various government entities' responses to the virus. Unsurprisingly, nearly everyone in the panel had been substantially impacted by the virus, particularly in terms of employment and finances. There were also several notable differences between the different regions, which are detailed on the venues page.

The remaining time was spent discussing several domains likely to see litigation stemming from the COVID-19 pandemic. Each segment consisted of a moderator-led discussion lasting between thirty to sixty minutes. In addition, jurors offered their verdict opinions toward several case vignettes representing likely cases in each domain. We selected industries for these case vignettes both to obtain data specific to each of them and because investigation into each of these domains promised to reveal participants' underlying views about broader themes like **personal responsibility**.

3 Major venues

7 Litigation types

12 Focus groups

82 Mock jurors



DALLAS NEW YORK OAKLAND PENSACOLA

Litigation Topics

The first topic discussed related to **insurance claims**. Specifically, jurors offered their opinions of insurance companies and their beliefs about how policies were written. They were read case vignettes related to business interruption coverage and offered their opinions toward virus exclusions written into policies. They also indicated which case themes and arguments would be important for their consideration in a hypothetical lawsuit.

Next, jurors were asked about how they viewed **cruise lines** both before and after the COVID-19 pandemic. They reflected upon their personal experience on cruises and their assessment of the cleanliness of most cruises. They were read two case vignettes related to the cruise lines: one that presented the potential liability of cruise lines for sick passengers, and another that discussed their potential liability to stockholders.

Third, jurors shared their perspective on **customer claims** stemming from COVID-19 related cancellations. These included reimbursement from airlines, sporting and music events, and universities. Many participants had personal connections to these sorts of claims, but they had extremely diverse experiences in terms of getting recompensed. They offered illuminating opinions on each of the relevant industries and the viability of lawsuits against various entities like the airlines and universities.

The fourth topic discussed in the groups was **employment litigation**. The case vignette read to participants pertained to employees falling ill in a meatpacking plant. The focus group also discussed their beliefs about how employers should take care of their employees during and after the pandemic. Several important differences emerged among the venues when it came to whether employees had an obligation to return to work independent of safety measures taken by the employer.

One of the most intriguing topics discussed during the focus groups was litigation pending against **nursing homes**. Since most participants were acutely aware of the virus' disproportionate effect in nursing homes, they had relatively strong opinions about the case vignettes that described illness and deaths among patients. A few participants even had relatives who had been infected or passed in nursing homes.

Lastly, jurors discussed the interpretation of **contracts** in the time of the pandemic. Participants argued about the importance of following the letter of a contract and about the unprecedented nature of the pandemic. The legal concept of *force majeure* was foreign to most participants, but after a brief explanation, they generally agreed in its application given the circumstances.



Case vignettes in business interruption insurance, cruise lines, securities litigation, employment claims, and nursing homes

COVID-19 Client Resource Hub

Detailed findings, insights, and recommendations developed through these focus groups and related research into implications from the pandemic can be accessed through our COVID-19 Client Resource Hub.

[Explore the Hub](#)

Contact us today to discuss the specific needs of your case and learn more about the application of these insights for your client.



Jury Consultant contributors to this report:

G. Christopher Ritter, Senior Strategy Advisor and Jury Consultant



Chris is a highly sought advisor for top clients seeking guidance and perspective on case theme and persuasion graphics development, witness preparation, as well as focus group and mock trial research. Chris graduated from the University of Chicago Law School and actively tried cases for nearly fifteen years. He served as adjunct professor of law at the University of California, Hastings School of Law for twelve years, teaching courses in trial practice and evidence. Chris has advised clients for more than twenty years on over 500 cases throughout the country, with more than 100 mock jury and focus group projects. He is a prolific writer, drawing on this depth and breadth of experience to share best practices and guidance for clients and peers. Chris's written works include three books published through the American Bar Association, and dozens of articles and case studies on topics including persuasion strategy, trial graphics, witness preparation, and trial war room management.

Carolyn Spencer-Mork, Senior Jury Consultant



A jury consultant for well over a decade, Carolyn has consulted on over 250 cases throughout the country. As a socio-cultural anthropologist, she understands methods of communication, jury psychology, and group dynamics. She offers expertise in the areas of mock trial and focus group jury research, theme development, trial strategy, witness preparation, and voir dire and jury selection methodology. Carolyn is particularly skilled at designing jury research that helps clients gain strategic advantages early in the discovery process. Whether research involves testing potential witnesses in order to craft an effective company story, persuasively contextualizing damaging emails in advance of depositions, or developing an effective case theory to guide discovery, Carolyn helps her clients leverage early insights. She holds a master's degree in anthropology and is fluent in Russian.

Marion Stampley Jr., J.D., Senior Jury Consultant



Marion is a jury consultant with expertise in focus group and mock trial research. He has worked on over 300 mock jury and focus group projects throughout the U.S. and Canada and has extensive experience in the areas of research design, witness preparation, selection and management of shadow juries, jury selection for trial, and administration of post-trial interviews. Marion has managed and staffed several multimillion-dollar ERISA, trade-secret, intellectual property, and construction lawsuits, and he has also been a speaker for several CLE conferences and an adjunct professor at multiple universities. He holds a master's degree in communications with specializations in mediation and conflict resolution, along with administrative legal training, and a law degree.

Clint Townson, Ph.D., Associate Jury Consultant



With a Ph.D. in the field of communication, Clint knows how to deliver crisp, effective courtroom messages. His work as a university instructor enabled him to develop an adaptive instructional style which he now uses when he prepares different types of witnesses for trial. During his training as a trial consultant, Clint became skilled at evaluating mock trial data and identifying the traits that are predictive of verdict outcomes. Through collaboration with professors and fellow graduate students, he learned to apply quantitative findings to practical outcomes. Currently, Clint uses his social science background to help develop sophisticated research approaches, valid and reliable results, and theoretically grounded strategic recommendations.

Strategy Advisor and Trial Consultant contributors to this report:

Jason Barnes, Senior Strategy Advisor



Jason Barnes is a trusted senior advisor to the firm's top clients. A pioneer in the field of trial graphics since 1990, he helped to transform the standard of courtroom presentations from hand-crafted poster board to modern digital technologies. With three decades of trial experience, encompassing over 100 trials and more than 500 cases, Jason has a deep understanding of trial preparation and practice. He has a background in engineering, computer science, and graphic design and has contributed to books, presented CLE classes, and provided guest lectures to law school students. Jason serves as Associate Editor and is a frequent contributor to *The Jury Expert*, a publication of the American Society of Trial Consultants. Today, through his advisory work and thought leadership contributions, Jason continues to shape how technology and graphics are used in the courtroom.

Britta Stanton, Strategy Advisor



As a former trial attorney, Britta pays rigorous attention to details and reviews case issues with laser-like focus. An experienced trial lawyer with nearly twenty years of practice in state and federal venues, and now as a trusted strategy advisor with the company, Britta has advised clients on hundreds of cases and trials. Britta has always been fascinated by the ways people are persuaded, develop beliefs, and make decisions. Thus, at the University of Texas, she chose to study advertising. She went on to Baylor Law School where she learned to persuade judges and juries as a trial lawyer. As an attorney, Britta has served as faculty for the National Institute of Trial Advocacy and worked with mock trial students to teach both law students and young lawyers the art of advocacy. Today, she helps the firm's clients explore how to best persuade juries using everything from trial technology and demonstrative evidence to effective witness preparation.

Jeremy Young, Senior Expert Trial Consultant



Over the last eighteen years, Jeremy has managed trial strategy development and graphic production for some of the country's highest-stakes trials. He has collaborated with trial teams on over 300 matters in virtually every area of litigation. Recently, Jeremy led our team's efforts on two closely watched trials; FedEx's defense of a \$1.6 billion criminal drug conspiracy case—a case that was abruptly dismissed shortly after opening statements—and the largest ever auditing negligence case to reach trial, where our client sought to recover \$5.5 billion, plus punitive damages, and received a settlement shortly after resting their case.

Jeremy has worked on numerous high-profile antitrust matters, and led collaboration with the SEC on more than forty cases including a trial that resulted in Waste Management's former CFO being found liable on all sixty counts of having falsified company accounts in a \$1.7 billion accounting fraud that remains one of the largest in US corporate history. Jeremy also assisted with the successful criminal prosecution in the 2001 San Francisco "dog mauling" trial.

In 2019, **IMS ExpertServices** acquired **The Focal Point**, a national leader in trial consulting services, including trial graphics, jury consulting, trial presentation, and trial strategy. Today, the firm delivers consultative trial and expert services for the most influential global firms. Over nearly three decades, across more than 20,000 cases and well over 1,000 trials, the firms and attorneys most trusted by the Fortune 100 have relied on us to deliver the best-aligned experts and litigation consulting services for their matters and ensure a smooth engagement with each expert and each project from start to finish. Contact us at **877.805.4839** or at Info@thefocalpoint.com to learn how **IMS | The Focal Point** can assist you.