

Top Ten Tips For a Useful Mock Trial

*by Robert P. Latham
Jackson Walker L.L.P.*

1. Don't worry about who wins or loses the mock trial. The important thing is the data you get from the mock trial.
2. Focus on the mock jurors who were against you and figure out ways to win them over.
3. Do not present prejudicial evidence that will clearly **not** get into evidence at the real trial. This is true for both sides of the mock trial. Doing so interjects an issue that might have a nuclear effect and would prevent the mock jurors from focusing on other issues.
4. Do not simply focus on what the jurors heard that they liked, but focus on what they wanted to hear and did not. What facts would have made your case stronger? What facts would have made it weaker?
5. If you're using video clips of witnesses, make sure there is some continuity at least at some points of the video. Mock jurors are unlikely to get a sense of the witness if the video is too choppy. And getting an accurate assessment of the credibility of witnesses is a critical component of a mock trial.
6. Find out what the jurors thought was confusing, what they found incongruous to your theme, and what they found to be a red herring.
7. See if there was one overriding, deciding issue for the jurors, and if so, what it was. Did it differ between the jurors?
8. A mock trial provides some of the best continuing legal education there is. This is your opportunity to see how your presentation is received and see what the mock jurors did and did not like about you personally – not just your case.
9. Find out what the jurors thought of the graphics or displays of evidence that were presented. How could they be changed to make them more understandable? Are there additional graphics that they think might have been helpful?
10. If you have an employee witness who has not taken to coaching, consider letting him/her watch the jury deliberations – or show a tape of the deliberations to him/her.