By John Gomez, *Co-Chair of Damages: Go Big or Go Home*

We all are accustomed to using focus groups to evaluate the strength and weaknesses of our cases. At Gomez Trial Attorneys we are now using focus groups to actively discuss the damage award. As the arbiter of the damage award, we want to learn what truly matters to the jurors regarding our case and what they believe makes the case worth what we think the case it is. Therefore, we use focus groups to:

- Predict – We do not try to use the focus group to predict the outcome, but to tells us what works and what doesn't in areas such as theory of the case, the claims, the various witnesses we will be calling, and the Ask – how much money should we be asking for.

- Prepare – We will use the group in the preparation of the case. In the beginning, and without any directing, we will work with the focus group to assist in brainstorming theories and ideas so we can understand the intuitive reactions to the case. We use focus groups at this stage in two different ways.

  o Early in the case it is a "kitchen table approach" by providing a bare bones overview of the case and open it up to questions. As the discussion continues we will incrementally add facts and continue the questions.
  o Farther into the case, we will start presenting and testing the theories and ideas of the case to a focus group. The lawyers will test their case preparation on themes, facts of the case, voir dire prep, openings and closings. That is followed by a questionnaire to each group members and deliberations by the group. Following the deliberation, the lawyers will return and talk with the focus group to better understand the positions.

- Practice and Polish – The focus group members will be treated like potential jurors with actual voir dire, opening statements (with some elements of the closing statement included) and live client testimony with both direct and cross. The witness will be evaluated by the focus group, along with the group conduction full deliberations.

By the time we go to trial, we will know how the case must be presented to give our client the greatest opportunity for success and the damage award appropriate for the facts. Although we can never fully predict the outcome, we do hope this will help up understand what we need to do to get the outcome we want.