

# The Focus Firm Method: Why and How it Works

By Matthew Hass

*Matthew J. Hass, founder of The Focus Firm is a strategic communications expert who emphasizes focus group analysis. Through The Focus Firm, Hass utilizes focus groups to analyze juries and campaign messaging in his service as a consultant for political campaigns, marketing campaigns, and trial lawyers. Hass' expertise in simplifying complex issues for mass audiences has defined his career, with hallmark successes in varied areas from ballot campaigns to legislative issues.*

Trial lawyers are well aware of the countless unknowns affecting a jury's assessment of liability and damages, and they know that for each case there are countless ways to frame it before a jury. That's where focus groups can be a key tool in your toolbox. By using scientific methods to drill down to the best message and then applying strategic communications methods to refine it, you can create a winning frame that will take your argument from good to great to out of this world.

In college I studied rhetorical theory, persuasion and debate, and have been fortunate to put that background to use in my career. My early years were spent working to persuade voters to cast their ballot for or against issues and candidates, a career path that eventually led me to the Arkansas Trial Lawyers Association (ATLA), where I started as political director and worked my way up to CEO. Here my persuasion work shifted to fighting tort reform and helping lawyers better tell their stories. What I found over the years is that law school prepares students to work with the law, but doesn't spend much time on an essential issue....persuasion. At the end of the day, a trial is a storytelling competition and the most persuasive story wins.

Through the years I've seen that learning to show the *why* of a story as early as possible is infinitely more persuasive and powerful than simply telling a juror *what* happened. An examination of how we receive information illustrates the reasons for this.

First, it's extremely important to note that humans are primarily visual creatures – just consider the booming popularity of digital video, internet memes and selfies! The advertising world has long known this given their heavy reliance on graphics over copy. The popularity is because we receive information visually, and it's often said that as much as 97 percent of all communications is non-verbal. That means a lawyer presenting to a jury is communicating 97 percent of his or her message with something OTHER than words! Of that 97 percent, 55 percent is purely visual. The rest is tone, speed and inflection.

What this means for a trial lawyer is that your presentation to a jury should be such that they could see it on video with the sound completely off and be able to tell *at least half* of what your case is about.

Sound daunting? Not if you know the science behind it.

Humans are so visual that in order to find out why, we've got to back...way back...all the way back to the beginning -as in the beginning of everything.

In the beginning, there existed space, time and matter, which are coincidentally the three most important elements of a story: the *where*, *when* and *what*. These initial elements lay the foundation for all stories.

Next up, of course, was the *who*. Specifically, the reptiles (for brevity, we skip all those single celled organisms and fish). Now as trial lawyers, you've probably heard about their frame of mind. As one of the most primitive creatures in existence, the only thoughts they had were, "Where am I?" and "Where is the danger?"

When mammals appeared on the scene, they required more brainpower to function. Mammals are more family oriented and are more concerned with protecting their young. They work on gathering food to bring back to their brood, but they can also keep an eye out for danger like the reptiles that came before them. Which leads us to considering primates and their ability to piece together the mechanics of *how* a thing occurs.

For example, a primate can look and see that a rock falls onto another rocky surface and makes a spark. The primate can reason that the rock falling and hitting another rock is *how* the spark was made. This evolution natural leads us to how the *why* is processed. The human is the only animal that asks "Why?" If you don't believe me, go talk to a four-year-old. Humans have become so good at asking "why" that we have formed our own bias called "The Why Bias," and this is where The Focus Firm, well... focuses.

The Why Bias occurs when a person forms an opinion about why something happened. Once that opinion has been formed, it's very difficult to change our own opinion, much less those of other people. This is why it is essential for lawyers to train themselves to attack a case theory from a Why perspective rather than a What perspective – to influence the Why bias before the defense or another juror does.

Some lawyers enter a courtroom and tell the jury what happened to their clients, and as they are doing so, the jury members are forming their own Why Bias. The Focus Firm method is to instead reframe the argument to say why something bad happened, and as a result of the why, what occurred.

When you begin with the “why” of the case – the thesis of the case – you will become the director of your story. Every trial lawyer should envision himself or herself as a movie director – not the star of the show, not the action hero who comes in to save the day. Just as a director does, a trial lawyer must discern the best material to include in the final cut. You have to learn to decide what story you want to tell and what’s going to remain on the cutting room floor. At the Focus Firm, we help lawyers decide what to keep in the film.

Now its time to get visual.

Once you have the strongest aspects of your case determined, including the most powerfully illustrative angle, you will need to determine how to best *show* your case thesis to the jury. Because we know that humans are visual, showing a jury why something happened is more powerful and persuasive than telling them what happened.

Enter the Equation of Persuasion

Using the strongest aspects of your case, The Focus Firm teaches you to learn to use the “Equation of Persuasion” to hone your case thesis into a simple case statement consisting of no more than three points that can be made in nine seconds and in no more than 27 words. The equation 3 x 3 x 3 is a fun way of remembering this powerful method of communicating your case’s “why” in the most persuasive, succinct way possible. Once you have your refined and simplified case statement, you can then work on a simple visual element that will graphically show the Equation of Persuasion.

A great example of how a graphic can convey complicated ideas in an easy to understand way is depicted below. This image illustrates in one easy to understand graphic the logic behind The Focus Firm method. Once you’ve used the Equation of Persuasion to hone your case statement, you can work on creating an illustrative graphic to accompany your verbal statements.

Utilizing a focus group for all your cases, from the most complex to the seemingly straightforward, is the best way to drill down to your core arguments and issues . Just as directors use preview screenings to make final edits to their movies. Lawyers use focus groups to do the same thing. This is a qualitative research method that gets to the true heart of why people feel the way they do about a particular subject, idea, or even word. In messaging and strategic communications, we get that specific because one word can unknowingly color and negatively impact your case at trial.

As trial attorneys, we tend to think inside our box and see the story the way we received it – from the injured party’s standpoint. It’s very difficult for us to step outside of our work and get an objective angle on our case theories and directions. And when the pursuit of justice for an injured person or a bereaved family is the issue at hand, it’s simply a best

practice to focus group your material as early as possible. The further down the road you go, the narrower your case navigation options become.

I've done countless focus groups, some highly organized and formal and some informal and spontaneous. The informal venues don't offer the demographic control needed for a large caliber cases, but getting unaffected opinions is extremely valuable and is the entire purpose of a focus group.

Some attorneys conduct their own focus groups, and some are very good at it. But beware the focus group's major pitfall – moderator bias. A skilled moderator is trained and aware of avoiding all traces of a moderator bias, because once a participant feels even subconsciously led in one certain direction, you've poisoned the well and will not have solid qualitative data from which to drive the most powerful story of your case.

Another major pitfall of an inexperienced moderator is the risk of groupthink tainting your research group. There are dominant personalities that can color the perceptions and feedback of the rest of the group, and without knowing how to work around that you can squander the opportunity to gather extremely valuable data. And without this feedback, you may find that the most persuasive part of your story ends up on the cutting room floor.

We see cases and trials every day that include years' worth of research and discovery, and each piece of information gathered potentially holds the key to success or failure in the courtroom. Considering the implications of humans' visual nature and processing, and how quickly the Why Bias is formed, the critical nature of defining the right Why message and showing it in an effective way is clear. Beginning with the right qualitative data early on will ensure you have the best chances of winning at trial.

Now grab your director's hat and get to work.