



The True Benefits of A Summary Mock Jury Trial

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Recently, one of the largest construction defect cases in Palm Beach county

history was settled just days into the jury selection process. Some would say that the fate of the San Matera Condominium Association case was decided a month before, when the presiding judge ordered all of the parties to conduct a summary mock jury trial before several panels of prospective jurors. In essence, the parties were required to prepare their case as though they were indeed going to trial. However, rather than bringing in countless fact witnesses and expert witnesses to testify, the summary mock jury trial process requires the attorneys to present their case to two or three jury panels, based on what the attorneys believe will be the facts and evidence presented during a regular jury trial, and the summary mock jury panel(s) render an advisory verdict based on the presentation of the parties. It is believed that this summary mock jury trial process, while sparingly used, may be an invaluable tool for both litigants and clients to obtain a cost effective view of their case from the eyes of the jurors and, as was the case in San Matera, encourage settlement of the case.

Summary Mock Jury Trial Process

The summary mock jury trial process can take anywhere from a half-day to two full days for the selection of the jury panels, presentation of the cases, and ultimate verdict from the jury panel. The decision of the jury panel is typically not binding, unless the parties agree beforehand to be bound by the jury panel's decision. However, because often the summary mock jury trial is used as an alternative to previously failed mediation attempts, the parties often will not agree to be bound by the decision, and instead it is mostly relied upon to provide both sides to the case a view of what can generally be expected during the real trial of the case. Because the summary mock jury trial process is an alternative dispute resolution tool, the Court will require that both sides have present during the trial a representative that has the authority to settle the case.

Following the selection of the mock jurors, the Court permits the attorneys to present what they believe will be the admissible facts and evidence to the jurors in a summary fashion. However, because it is a summary jury trial, there are no live witnesses and no cross-examinations or countless interruptions in the presentations. The Court will encourage both sides to limit the amount of objections raised and will give each party a set amount of time in which to deliver their presentations. During the presentations, the attorneys are permitted to read reports and transcripts of what they believe is key testimony in the case, present video and/or photographs of key evidence, and explain to the jurors how all of the evidence presented supports their respective case. In the end,

the case is given to the mock jurors, and they are asked to render a decision based on the information they have obtained during the proceeding.

Once the jurors render their decision, the verdict, similar to a regular trial, is read to all of the parties. However, unlike most regular trials, following the rendering of the mock juror's verdict, the parties are encouraged to speak with the jurors and gather information as to what those jurors thought of the case, the attorneys, and the information obtained during the presentations. This question and answer period may be just as valuable as the information being presented by the attorneys. It provides both sides with a view into the minds of the jurors and what those jurors viewed as important, valuable, and/or immaterial information about the case.

The Advantages of the Summary Mock Jury Trial

1. It provides both sides with a realistic view of their case from the perspective of a jury.
2. A mock jury trial can establish the realistic value of a dollar range value of the case to encourage both sides to reach a resolution prior to trial.
3. It will allow both sides to view the strengths and weaknesses of not only the opposing side's case, but also the opposing counsel.
4. Finally, the interviews with the jurors following the presentations allow the litigants to truly hone in on the parts of the case that were most persuasive, what was lacking in detail, and what was least persuasive so that each side can refocus their ultimate presentation to the real jury.

Some of the initial objections to the summary mock jury trial process are that each side will incur significant fees in preparing for the summary trial, the Court will be dedicating its time and resources to the summary trial, and ultimately the decision of the mock jurors is not binding nor dispositive of the case. However, such objections are short-sighted because they fail to consider the overall impact that the summary jury trial will have on the case as a whole.

First, as indicated above, the summary mock trial will allow both sides to view the strengths and weaknesses of the case, which information has a significant impact on the decision to settle a case. For instance, if one of the parties, following the summary jury trial, realizes based on the jurors' decisions that their case has significant weaknesses, that party will inevitably reconsider its position on settlement negotiations. Second, while the preparation that goes into a summary jury trial is not as complete as it would be for a regular trial, if the parties indeed do not settle following the summary jury trial verdict, both parties will be much better prepared for the regular trial. Lastly, the information gained from a juror's perspective is invaluable because it is almost always too late to find out what a juror thinks about your case on the first day of the real trial.

Conclusion

While it can certainly be argued that the summary mock jury trial process has its apparent limitations, such as the fact that the jurors will not view the personalities that make up the fact and expert witnesses, the entirety of all of the actual physical evidence, or the longer and elaborate presentations—it is undeniable that there is significant value gained from the summary mock jury trial process. There is no replacing the information that the litigants and clients will gain from speaking with the jurors and hearing from their perspective what they believed was persuasive, informative, or irrelevant. That information will only assist the parties to further focus their case and ultimately be in the best position to either settle or proceed with the real trial.



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