

# Monthly News & Updates

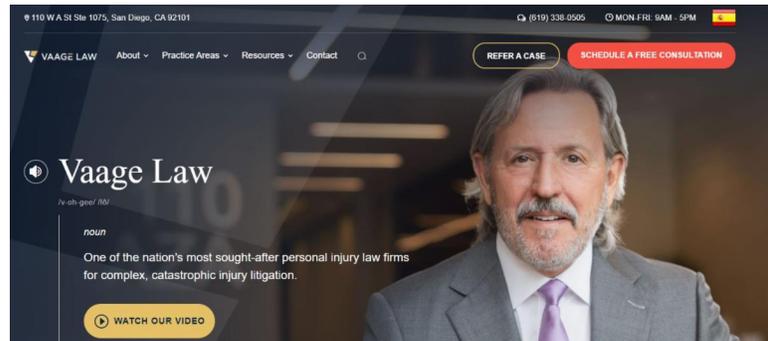
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## Follow Us



## Newsletter Topics

- *Focus Groups*
- *Vaage Travels*
- *Tip of the Month*
- *Book Review*



## Bob Vaage Now Offers Trial Tips

**Vaage Law** has launched a new website with an emphasis on mentoring, referrals, and co-counsel opportunities. If you are a plaintiff's attorney and are interested in improving your trial skills, take advantage of Bob Vaage's extensive trial experience by registering now to receive **Vaage's Weekly Trial Tips**. Reach out to Bob about your case by calling (619) 338-0505 or contacting us through the website's **Referral Page**.

## Focus Groups on a Budget

*Bob Vaage describes how to conduct a Focus Group on a budget*

Mock juries or focus groups are critical in assessing the strengths and weaknesses of a case, positive or negative impressions of a client, and the reasonableness of damages. Vaage Law runs focus groups approximately two to three months before trial, and sometimes earlier, to identify key issues or problems. Conducting focus groups can be very expensive, but Vaage Law can get them done for less than \$1,000. Bob Vaage provides a blueprint for how he conducts focus groups on a

budget.

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## The Ingredients for a Focus Group

Before conducting a focus group, there are some preliminary items to have on hand:

- Video camera (preferably wide angle) with a decent microphone[See below]
- Tripod
- Conference room or outdoor location[See below]
- Podium (optional)
- Screen and Projector (optional)
- Craigslist account
- Participant Information Sheet
- Confidentiality Form
- Lawsuit Questionnaire
- Opening Statement or Summary of the Case
- Key Evidence
- Jury Instructions
- Verdict Form
- Snacks/Beverages
- Cash to pay participants

**About the Video Camera:** Just like in a real trial, the mock jury deliberates outside the presence of the attorneys. Therefore, the purpose of the video camera is to record the deliberations. A wide angle lens is helpful in capturing the body language of all of the participants. A good microphone, like a Rode, will record the deliberations much better than the microphone on the camera.

Obviously, the most expensive items on the list are the video camera and microphone. However, by spreading the cost out over multiple focus groups, it probably accounts for less than 10% of the overall cost. Web cameras and video cameras are relatively inexpensive, but if you plan to use the camera for video blogs or recording evidence, invest in a higher quality camera and microphone. In a pinch, the video recording feature on a cell phone could be used, although storage capacity is limited.

**About the Conference Room:** If you have no access to a conference room, try contacting your court reporting firm. Also, some buildings have conference rooms available to reserve at not cost.

With COVID-19, it may not be possible to conduct a focus group inside. Consider

rooftop patios or other outdoor locations if necessary. We have not tried to have a focus group on Zoom or some other video platform. While it's technologically feasible, it's not ideal. Attempting focus groups via videoconferencing is not recommended. You could potentially present your case to a focus "person" via Zoom, but losing all of the group dynamics is the real downside.

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## The Forms We Use for Our Focus Groups

Vaage Law also has each participant fill out a [Participant Information Sheet](#), [Confidentiality Form](#), and [Lawsuit Questionnaire](#).

First, collect demographics about your participants using a Participant Information Sheet. This contains typical questions that might be asked during voir dire or on a questionnaire to a potential jury. They include things like age, occupation, marital status, children, prior jury experience, etc.

Second, have the participants sign a Confidentiality Form. This helps protect your work product, checks for conflicts, and informs participants that they must disclose involvement in the Focus Group should they be called as a potential juror if the case goes to trial.

Third, to get an idea of how this group of people feels about lawsuits in general, we sometimes have them complete a Lawsuit Questionnaire. Are the deliberations affected by any bias against lawsuits or monetary awards?

Below is a snapshot of a portion of the Lawsuit Questionnaire given to Focus Group participants.

### DO YOU BELIEVE:

1.	THERE ARE TOO MANY LAWSUITS?	YES	NO
2.	JURY AWARDS ARE TOO HIGH?	YES	NO
3.	PEOPLE ARE TOO READY TO SUE?	YES	NO
4.	LAWSUITS ARE COSTING US ALL TOO MUCH MONEY?	YES	NO
5.	THE MONIES AWARDED BY JURIES TODAY ARE:		
	A) EXCESSIVE		
	B) ABOUT RIGHT		
	C) TOO LITTLE		
6.	WOULD YOUR FEELINGS TEND TO MAKE YOU WANT TO AWARD AS LITTLE AS POSSIBLE?	YES	NO
7.	IS THERE AN AMOUNT OF MONEY THAT YOU WOULD FIND UNREASONABLE FOR A JURY TO EVER AWARD?	YES	NO
	How much?		

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## Decide What the "Focus" Is

Before conducting a focus group, decide what the "focus" is. In the past, Vaage Law has used focus groups for the following:

- Presenting the case in general and seeing what the verdict will be
- Determining the strengths and weaknesses in the case
- Determining how our experts stack up against opposing experts
- Finding ways to overcome weaknesses in the case
- Identifying biases in the community
- Seeing what themes resonate with potential jurors
- Getting mock jurors' impressions of our clients through live testimony and defendants through video depo clips

Asking a fellow attorney or colleague to act as opposing counsel will assist in creating a more realistic presentation.

Sometimes it takes more than one focus group session to truly understand the strengths and weaknesses of your case. Therefore, keeping costs down is important.

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## Use Craigslist to Recruit Focus Group Participants

Here is a sample of one of our posts on Craigslist, under the "Gigs" section. We

generally post our inquiry two days before the focus group. In the example below, we hosted a focus group on Wednesday and posted on Monday. The cost is \$50.

*We are seeking participants for a jury focus group being held this Wednesday, [date] between 12:30 p.m. to 5:00 p.m. Help evaluate and give feedback on a lawsuit headed to trial. We pay \$70. Please no applicants who have participated in a focus group in the past 6 months. Please no recruiters.*

*The focus group will go forward in an office in downtown San Diego. Trolley and bus stops are located just two blocks from the building. We are unable to provide parking in the building. If interested, please reply today, [date], with the following information:*

1. *Name*
2. *Sex*
3. *Age*
4. *Occupation*
5. *Jury experience*
6. *Interests*
7. *What part of town you live in*
8. *Three people you most admire (still living)*
9. *Your resume. If you do not have one, please provide similar biographical/professional background information.*
10. *Contact information (email and phone number)*

*Thank you for your interest. We will reply by email and provide contact information to those selected.*

The number of respondents on average is 30-40. Depending on the size of the conference room, we select anywhere from 6 to 16 participants. Out of those who commit, typically 75% actually show up. On average, the cost related to participation is \$490 to \$560 for 7 to 8 people.

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## Running Focus Groups on a Budget

The hard costs of running a focus group are as follows:

- **Craigslist Post: \$50**
- **Participation Fees: \$490-\$560**
- **Snacks/Beverages: \$100**
- **Video Camera/Microphone/Tripod: \$50-\$100 per session for 10 sessions**

Focus groups are a great way to simplify your case, identify weaknesses, and determine potential damage awards. You can definitely conduct a half-day focus group for under \$1,000.

*If you are considering running a focus group and have questions about logistics, contact Vaage Law by phone at (619) 338-0505 or through our website at [VaageLaw.com](http://VaageLaw.com) for advice on how to proceed.*

## Vaage Travels

### Pienza, Italy - Cheese-Rolling Contest

Every year in the beginning of September, Pienza cheesemakers, known in particular for their Pecorino cheese, exhibit and sell their best products at the famous cheese festival called the Fiera del Cacio. ("Cacio" is the Tuscan word for cheese.) To me, the highlight of the festivities is a cheese-rolling contest called the Gioco el Cacio al Fuso. In the main piazza, one player from each of the six districts or contrade must roll a Pecorino wheel towards the fuso (a spindle). The team with the highest points wins. You can watch a great video of it on [YouTube](#).

If you are traveling to Tuscany in late August/early September, don't miss this quaint and unique festival.



In the cheese-rolling contest, teams from various districts see who can roll a wheel of Pecorino cheese closest to a pin in the main square.



Representatives from each district wear their colors and carry flags during a parade through the main strada.



Flag juggling by locals brings color and impressive coordination and athleticism to the festivities.



Locals dress in attire from another era.

## This Month's Tip

### Get Medical Records Using the HITECH Act

*- Elizabeth Teixeira, Esq.*

At the start of every case, I used to have our clients sign HIPAA authorizations to obtain copies of their medical records. I now add another form, a [HITECH Act Authorization](#).

The Health Information Technology for Economic and Clinical Health Act or HITECH Act is a federal law that encouraged the use of electronic health records (EHR). See 42 U.S.C. section 17935. It establishes that a patient has the right to obtain a copy of their EHR at a low price, and they can designate the records be sent to his/her attorney.

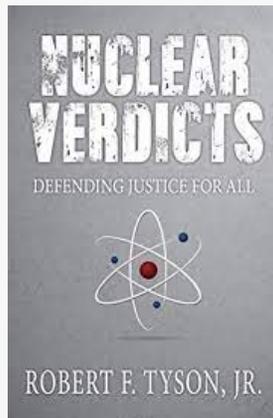
An important part of the HITECH Act is the limitation on the costs to obtain the EHR. "... [A]ny fee that the covered entity may impose for providing such individual with a copy of such information (or a summary or explanation of such information) if such copy (or summary or explanation) is in an

electronic form shall not be greater than the entity's labor costs in responding to the request for the copy (or summary or explanation)." 42 U.S.C. section 17935(e)(3). So rather than a per-page cost, generally you pay for the cost involved in copying the files to a CD or e-mailing the record.

Keep an eye out for upcoming changes to patient access to medical records. As part of the 21st Century Cures Act and the Centers for Medicare and Medicaid Services (CMS) rules on Interoperability and Patient Access, patients will have online and mobile phone access to their health records.

Currently, obtaining copies of the medical records, especially if they are voluminous, can be very expensive. For now, use the HITECH Act to your advantage to keep costs under control.

## Book Review



### ***Nuclear Verdicts: Defending Justice for All*** **by Robert F. Tyson, Jr.**

This book, written by a well-known San Diego defense lawyer, is essentially his manifesto for defense lawyers in terms of how to defend high value cases and prevent significant verdicts. Reading this book falls into the category of “know your enemy as well as you know yourself.” It is an important read because I believe that many defense lawyers, particularly younger defense lawyers, are going to implement the tactics Mr. Tyson suggests in his book.

According to Mr. Tyson, a good defense attorney should accept responsibility for

the obvious, give the appearance of being reasonable, and apply common sense. He goes into a very detailed analysis in terms of questioning plaintiffs during their depositions as a way of holding down general damage awards. It is particularly important that you be familiar with this as you can anticipate your clients will be asked these questions and they should be prepared for them. The intent of these questions is to attempt to demonstrate that your client's life really hasn't changed all that much, even though they have a serious injury, and they can still do many of the things they could do before.

*Nuclear Verdicts* is a relatively quick read, and it will provide you with valuable information in terms of where most defense lawyers will go in defending their cases in the coming years.

Find the  
Book



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## San Diego Personal Injury Lawyers

Since 1992, our firm has been focusing primarily on helping victims of injury regain order in their lives. We are compassionate, understanding, and committed to achieving your best possible outcome in the courtroom or at the settlement table.

