

N o t i c e t o C o u n s e l
o f J u r o r Q u e s t i o n s t o b e S u b m i t t e d

Counsel are hereby notified that the Court will permit jurors to submit questions for possible asking of a witness according to the following procedures:

1. Jurors will be informed prior to commencement of the evidence of a limited opportunity to submit questions to be propounded to witnesses. They will be further instructed in accordance with the instructions set forth on the following page. The procedure will follow that which was approved in *Hudson v. Markum*, 948 S.W.2d 1, 1997 Tex. App. LEXIS 1431, 97:15 Tex. Civil Op. Serv. 53 (Tex. App. Dallas 1997, writ den.). Juror questions were also discussed and approved in *Fazzino v. Guido*, 836 S.W.2d 271, 276 (Tex. App.—Houston [1st Dist.] 1992, writ denied) (citing *United States v. Callahan*, 588 F.2d 1078, 1085 (5th Cir.), cert. denied, 444 U.S. 826, 62 L. Ed. 2d 33, 100 S. Ct. 49 (1979)).
2. After both counsel have concluded their questions the Court will inquire of the jurors whether they wish to suggest a question to be asked of that witness.
3. Outside the presence of the jury, typically in a sidebar (that may not be of record unless an objection needs to be made on the record), the admissibility of the question will be determined.
4. If the question is determined generally to be admissible, it will be reworded to a permissible form. The Court intends that normally questions will not be propounded over the objection of counsel or in a form not concurred in by all counsel and the Court.
5. The Court will propound the question to the witness.
6. Each side will then be given the opportunity for follow up questions limited to the subject matter of the juror's question, first by the side not offering such witness and then by the proponent of the witness.
7. The questions will be retained, whether or not used in questioning, with a notation thereon by the Court as to the asking, or not, of the question.

I n s t r u c t i o n t o t h e J u r y
o f J u r o r Q u e s t i o n s t o b e S u b m i t t e d

1. The Court wishes to inform you of a limited opportunity to submit questions to be propounded to witnesses. In that regard, you are instructed that:
 - a. Some witnesses may be passed without your being afforded that opportunity.
 - b. It is possible that a question may not be posed if there is a legal objection to it and you should not concern yourself with the fact that it was not used.
 - c. Most questions will be re-worded to proper form.
 - d. The Court will pose the question to the witness, in proper form, and the jury is to draw no inference of the Court's opinion of the witness or the witness's answer or of any portion of the case.
 - e. After the question is posed to the witness by the Court, each attorney will have the opportunity to follow up on the same topic.

2. The procedure for this will be as follows:
 - a. After both counsel have concluded their questions the Court will inquire of the jurors whether they wish to suggest a question to be asked of that witness.
 - b. Your question should be written on one of the note cards that we have provided for that purpose. Do NOT place your name on the card.
 - c. Outside of your presence, typically in a sidebar, the Court will consult with counsel.
 - d. If the question is determined to be proper for asking, the Court will propound the question to the witness in a properly worded form.
 - e. Each side will then be given the opportunity for follow up questions limited to the subject matter of the juror's question, first by the side not offering such witness and then by the proponent of the witness.