

# NAVARRO COUNTY

MELISSA BUTLER  
COURT COORDINATOR

SHIELLY SWEENEY  
BAILIFF



LESLIE KIRK  
OFFICIAL REPORTER

**JAMES LAGOMARSINO**  
JUDGE, 13TH JUDICIAL DISTRICT COURT  
NAVARRO COUNTY COURTHOUSE  
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September 29, 2021

RE: Standing Order Regarding Jury Selection

Dear Counsel and Litigants:

Please find attached the Standing Order Regarding Jury Selection.

Respectfully,


A handwritten signature in blue ink, appearing to read 'James Lagomarsino', written in a cursive style.

James Lagomarsino  
District Judge / Local Administrative Judge

FILED

2021 SEP 29 AM 11:06

JOSHUA B. TACKETT  
DISTRICT CLERK  
NAVARRO COUNTY, TX

 DEPUTY

§

IN THE DISTRICT COURT

§

13<sup>th</sup> JUDICIAL DISTRICT

§

NAVARRO COUNTY, TEXAS

STANDING ORDER REGARDING JURY SELECTION

Pursuant to the Court's broad inherent authority to control proceedings in its courtroom which includes but is not limited to promoting efficiency and clarity, and pursuant to that authority, the Court issues the following order regarding jury selection:

No attorney may announce recess, breaks, direct the jury or jury panel to rise or perform any act without first obtaining permission of the Court outside the hearing of the jury.

Jury panel members may not be questioned regarding their ability to act in accordance with any requirement of the law without first informing the jury panel that the law requires a panel member who subsequently takes the jurors oath to so act. Jury panel members may not be reserved for group challenges or for additional questions and challenges. A challenge shall be made upon a member when the attorney is satisfied the answers disqualify the member. A failure to challenge at the appropriate time constitutes a waiver. Exceptions will be made for member responses which may prejudice the panel or where a prospective juror may request a private interview.

Attorneys are prohibited from attempting to define the term "beyond a reasonable doubt" or equating the term with some conceived example, or expanding the legal definitions of "preponderance of the evidence" or "clear and convincing evidence." Attorneys may not question the jurors regarding what the legal definition means to the jurors. Attorneys may not substitute their own definition or interpretation for that definition prescribed by law or deviate from the definition prescribed by law. Attorneys may not dissect the term "beyond a reasonable doubt" by stating it "means you do not have any reasonable doubt" or "no reasonable doubt"; "beyond a reasonable doubt means you don't have a doubt and the doubt is reasonable"; etc.; or nor attempt to quantify the term "beyond a reasonable doubt" with some conceived quantity of proof. However, the attorneys may tier the legal standards of proof and their relation to each other and commit the jurors to apply the appropriate standard required by law in a particular case and commit the jurors not to apply any other standards that might be cited as examples.

Attorneys are ordered not to commit potential jurors by relating facts of a case. Attorneys are ordered not to present the jury panel with facts or circumstances the attorney expects to be presented in the instant case during trial. The attorney is not a sworn witness subject to cross examination and relating such matters as a fact prevents a determination as to whether the potential juror can apply the law fairly and impartially if presented with proper facts or circumstances from sworn evidentiary sources from which facts, credibility and weight could be evaluated in context. Attorneys may not present analogous facts which correspond to their own case in order to commit jurors on fact situations. The attorneys are ordered not to ask the potential jurors what the juror wants to see or hear in a case or what the juror thinks is important in a case or ask a juror whether the juror believes a

particular fact or circumstance to be important, the method being merely inverse commitment questions on facts from non-evidence sources. *Sanchez v. State* 165 S.W.3d 707 (Tex. Crim. App. 2005); *Hyundai v. Vasquez* 189 S.W.3d 743 (Tex. 2006); *Barajas v. State* 93 S.W.3d 26 (Tex. Crim. App. 2003); *Standefer v. State* 59 S.W.3d 177 (Tex. Crim. App. 2001).

Although attorney biographical information is not relevant to any case, subject to cross examination or comment by opposing attorney, the Court will allow a brief introduction by attorneys. However, matters not to be disclosed are manner and means involved in the case; biography of anyone involved in the case, except the minimum necessary to identify a party or attorney or witness to the jury for acquaintance inquiry; whether or not a particular person has a criminal record or does not have a criminal record; or whether or not an application for community supervision has been filed in a particular case; etc. The examples are not exclusive.

This instruction does prevent the attorney from inquiring whether a potential juror could apply the law applicable to a civil case or the law applicable to prosecutions or defenses or whether or not a juror could consider the entire range of punishment in a proper case or whether or not the juror can fairly and impartially apply the law after being informed of the requirements of the law.

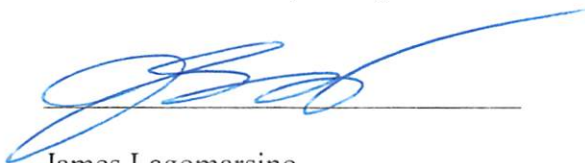
Any request to deviate or clarify is a pretrial matter and is to be taken up at pretrial and no later than before addressing the jury. No attorney is permitted to dispute the Court's instructions on the conduct of jury selection in the presence of the jury panel. The Court will provide adequate time to make objections on the record outside the presence of the jury panel.

The jury is bound to receive the law from the Court and be governed thereby. Tex CCP 36.13; *Mouton v State* 923 S.W.2d 219; *Sparf v. U.S.* 15 S.Ct. 273. Therefore, no attorney may state to the jury or jury panel that the Judge has misstated the law, is incorrect on the law, or dispute any law pronounced by the Court in the hearing of the jury or jury panel. If any attorney feels the Judge has done so, the attorney may request a hearing outside the presence of the jury or jury panel and if the Judge refuses to make a correction as requested, may object on the record outside the presence of the jury in order to preserve error.

All juror questionnaires must be surrendered to the District Clerk along with the strike list. Attorneys and those with whom the attorney has shared the questionnaires shall not retain a copy of any jury questionnaires at any time nor disclose the same without Court order upon good cause shown. Tex. CCP 35.26.

This order is effectively immediately and can be modified, suspended, or vacated by the Court.

Ordered the 29<sup>th</sup> day of September 2021.



James Lagomarsino  
District Judge / Local Administrative Judge