



CIVIL JURY PROJECT
at NYU School of Law

FACT SHEET:

Juror Questions

Summary: Allow jurors to ask questions of the witnesses. This is traditionally done in writing, and questions are screened by the judge for admissibility. Parties have an opportunity to object to questions. Allowing jurors to ask questions is intended to help jurors better understand the facts and evidence presented in the case, and to stay engaged with the trial proceedings. Juror questions may also help jurors better understand complex expert testimony as juror questions may quickly bring clarity to confusing aspects of the expert's testimony.¹

Empirical Studies: 2008 ABA Seventh Circuit Project: In thirty-eight (38) trials, eighty-three percent (83%) of jurors reported that the ability to submit written questions **helped jurors understand the facts**.² The timing of when judges inform jurors of their opportunity to ask questions may also matter: post-trial questionnaires revealed that only thirty-eight percent (38%) of jurors knew that they could submit questions when judges mentioned the option only in opening remarks, while ninety-nine percent (99%) of jurors understood that they could ask questions when judges mentioned this during trial.³

2005 New York State Jury Trial Project: In twenty-seven (27) civil trials⁴, seventy-four percent (74%) of judges⁵, fifty percent (50%) of attorneys⁶, and 87% of jurors⁷ in civil trials believed that juror questions **helped jurors to better understand evidence presented**.

¹ Shari Seidman Diamond, *How Jurors Deal with Expert Testimony and How Judges Can Help*, 16 J.L. & POL'Y 47, 64-65 (2007).

² SEVENTH CIRCUIT BAR ASS'N AMERICAN JURY PROJECT COMM'N, *SEVENTH CIRCUIT AMERICAN JURY PROJECT FINAL REPORT* 13 (Sept. 2008).

³ Shari Seidman Diamond, *Juror Questions at Trial: In Principle and In Fact*, 78 NEW YORK STATE BAR ASSOC. J. 23 (2006). Unfortunately, the sample size of the number of jurors who submitted questionnaires with answers to each of these questions is not available.

⁴ *Final Report of the Committees of the Jury Trial Project*, NEW YORK STATE UNIFIED COURT SYSTEM 59-60 (2005), https://www.nycourts.gov/publications/jury-materials/Final_Report_of_the_Committees_of_the_Jury_Trial_Project.pdf.

⁵ *Id.* at 65

⁶ *Id.* at 69

⁷ *Id.* at 70

Current Usage: Juror questions were permitted in twenty-five percent (25%) of civil jury trials in a 2015 survey of 1,673 state and federal court trials nationwide.⁸ This is up from sixteen percent (16%) in a 2005 survey also by the National Center for State Courts.⁹ A questionnaire circulated by the NYU Civil Jury Project to X judicial advisors suggests that 71% have permitted jurors to ask questions.¹⁰

⁸ Paula Hannaford-Agor, *But have we made any progress? An update on the status of jury improvement efforts in state and federal courts*, NAT'L CTR. FOR STATE COURTS (NCSC) CTR. FOR JURY STUDIES 7 (2015), http://www.law.nyu.edu/sites/default/files/upload_documents/But-have-we-made.pdf.

⁹ *Id.*

¹⁰ Questionnaire for Judges on Use of Jury Innovations (on file with Civil Jury Project). Of the twenty-one (21) judges who have responded, eight (8) regularly use the innovation, seven (7) have used it, and six (6) have never used it.