**1A.17 CAUTIONARY INSTRUCTION FOLLOWING JUDICIAL QUESTIONING OR CALLING OF WITNESS**

You should not assume that because I [call a witness to testify and] ask questions of a witness that the witness is more or less trustworthy than other witnesses or that answers to my questions are more or less correct or important than answers to other questions. And you should not assume that because I [called a witness or] asked questions that I have any opinion about the case. I [called this witness and] asked some questions to see if some additional testimony might clarify or fill out some things for you. This may or may not have been helpful to you. It is your job, and yours alone, to evaluate the evidence and to decide what witnesses to believe and what weight to give to testimony.

Use Note

This instruction should be given whenever the court calls a witness to testify. When the parties call witnesses and the court asks questions, the instruction should only be given when the court's questions appear to have established important or new information, or the court asks more than a few questions, which might suggest that it is emphasizing something about the witness' testimony.

For an instruction on the disclosure of the fact that an expert was court-appointed, see Instruction 1A.18.

Comment

If a good set of introductory instructions is given, the jury should anticipate that the court might ask questions. Thus, this instruction may not be necessary in many instances. Even though the jurors may know from introductory instructions that the court can call witnesses, this is done so rarely that whenever it occurs the cautionary instruction should be given.