

PJC 105.1 Question on Common-Law Fraud—Intentional Misrepresentation

QUESTION _____

Did *Don Davis* commit fraud against *Paul Payne*?

[Insert appropriate instructions.]

Answer “Yes” or “No.”

Answer: _____

COMMENT

When to use. PJC 105.1 is appropriate for use in most cases involving claims for fraud and can be used to submit both affirmative claims for damages and affirmative defenses.

Broad-form submission. PJC 105.1 is a broad-form question designed to be accompanied by one or more appropriate instructions. [Tex. R. Civ. P. 277](#) requires that “the court shall, whenever feasible, submit the cause upon broad-form questions.” [Tex. R. Civ. P. 277](#); see *Thota v. Young*, 365 S.W.3d 678, 689 (Tex. 2012) (rule 277’s use of “whenever feasible” mandates broad-form submission in any or every instance in which it is capable of being accomplished). For further discussion, see PJC 116.2 regarding broad-form issues and the *Careel* doctrine.

Accompanying instructions and definitions. PJC 105.1 should be accompanied by appropriate instructions and definitions. See PJC 105.2–105.4.

Damages. Damages questions are set out in chapter 115. PJC 115.19 submits direct damages in fraud cases, and PJC 115.20 submits consequential damages in such cases. For recovery of exemplary damages, see PJC 115.37 and 115.38.